

Title 172 - NEBRASKA DEPARTMENT OF HEALTH

**Chapter 1 - RULES OF PRACTICE AND PROCEDURE GOVERNING
REINSTATEMENT OF A HEALTH PROFESSIONAL LICENSE**

001 GENERAL

001.01 Scope and Application. These rules shall govern practice and procedure before the Boards of Examiners in Medicine and Surgery, Osteopathy, Chiropractic, Dentistry, Pharmacy, Podiatry, Optometry, Physical Therapy, and Embalming in proceedings involving a petition to recommend reinstatement of a license to practice medicine and surgery, osteopathy, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, physical therapy, or embalming which license has been suspended, revoked or has had limitations placed thereon. Practice and procedure before such boards is also governed by the applicable Revised Statutes of Nebraska and the decisions of the Nebraska Supreme Court. In the absence of a specific rule or order of such a board the statutory rules and practice obtaining in proceedings in the District Courts of the State shall be applicable, excluding pre-hearing conferences. These rules do not apply to subsequent proceedings on a petition before the Director of Health, which are governed by 71-161.20 and 184 NAC 1.

001.02 Informal Procedures. Matters which under the law may be acted upon without a hearing may be handled by correspondence.

001.03 Practice. Practice of law before the boards of examiners is governed by the applicable Revised Statutes of Nebraska and the decisions of the Nebraska Supreme Court. Appearances before the boards of examiners are also governed by Subdivision 005.07 herein. These rules shall not, however, interfere with or prohibit anyone from transacting his own business before the boards of examiners.

001.04 Correspondence. All correspondence and filings shall be addressed or delivered to the State of Nebraska, Board of Examiners in _____, Nebraska State Office Building, 301 Centennial Mall South, PO Box 95007, Lincoln, Nebraska 68509. Each piece of correspondence shall embrace only one subject, should clearly state the subject involved, and shall include the name and address of the sender.

FILED
SECRETARY OF STATE
SEP 14 93 05 930

APPROVED
DON STENBERG
ATTORNEY GENERAL
BY _____
Assistant Attorney General
DATE September 23, 1993

APPROVED
SEP 2 1993
[Signature]

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001.05 Office. The Office of the Director of the Bureau of Examining Boards, Department of Health, is located in the southwest corner of the third floor of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

001.06 Weekends and Holidays. No official acts shall be required to be performed on any Saturday, Sunday, or legal holiday. When the filing of a pleading or the doing of any act is required on or before a certain date which falls on one of these days, the time for filing said pleading or doing such act shall be extended to the next succeeding working day.

001.07 Rules - Copies. Copies of these rules and regulations will be available for public distribution at the Office of the Director of the Bureau of Examining Boards, Department of Health, the southwest corner of the third floor of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. They shall be distributed to interested parties free of charge.

001.08 Forms - Copies. Copies of any forms referred to in this body of rules will be made available, upon request, by the Department.

002 DEFINITIONS. As used in these rules of practice and procedure, unless the context to be intelligible or prevent absurdity otherwise requires:

002.01 Board or board of examiners shall mean the Board of Examiners in Medicine and Surgery, Osteopathy, Chiropractic, Dentistry, Pharmacy, Podiatry, Optometry, Physical Therapy, or Embalming.

002.02 Director shall mean the Director of Health of the Department of Health of the State of Nebraska.

002.03 Department shall mean the Department of Health of the State of Nebraska.

002.04 Petitioner shall mean a person filing a petition with a board of examiners for reinstatement of a license to practice medicine and surgery, osteopathy, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, physical therapy, or embalming which license has been suspended, revoked or has had limitations placed thereon.

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002.05 Pleading shall mean any written petition used in any proceeding for reinstatement of licensure before a board of examiners.

002.06 Proceeding shall mean all matters formally made in connection with any petition before a board of examiners.

002.07 Witness shall mean a person appearing at a proceeding before a board of examiners on behalf of the petitioner or the board of examiners.

003 PLEADINGS

003.01 Pleadings - Form. All pleadings shall be on forms prescribed by the boards of examiners or reasonable facsimiles thereof. In the absence of forms adopted as standard, and in all other instances, all pleadings shall show the venue, for example, "BEFORE THE BOARD OF EXAMINERS IN _____, STATE OF NEBRASKA", and shall be entitled: "IN THE MATTER OF A PETITION FOR".

003.02 Pleading - Printed. Unless otherwise prescribed, pleadings shall be printed or typewritten on white legal size paper 8 1/2 inches wide and 14 inches long, unless otherwise allowed by the board of examiners for good cause shown, and should be delivered or sent to the office of the Director of the Bureau of Examining Boards as the case may be.

003.03 Pleadings - Legible. Pleadings which are not legible and easily readable will not be acceptable.

003.04 Pleadings - Content. All pleadings shall set forth the facts upon which they are based, a request for whatever action is being sought and a reference to the applicable laws, rules and regulations, together with whatever further statement shall be required by provisions of law. Each pleading shall be subscribed in the name of the pleader or by his attorney, in which case the attorney shall also state his address.

003.05 Pleading - Reception of. All petitions or other pleadings filed with the board of examiners shall be stamped "Received" and such a stamp shall also state the date such pleading is received by the board of examiners. However, no pleading will be considered to be received by the board of examiners until such pleading complies with all the applicable provisions of law and with all of these rules and regulations. Unless the party to the

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proceeding is notified of such non-compliance within seven days of receipt of such pleading by the board, such act of non-compliance shall be waived by the board.

003.06 Petition - Denial of. The board of examiners may grant or deny, without a hearing or argument, any petition to recommend reinstatement when the petitioner has been afforded a hearing or an opportunity for a hearing within a period of two years immediately preceding the filing of such petition.

004 PROCEEDING FOR REINSTATEMENT OF LICENSE

004.01 Parties. The only parties to a proceeding before the board of examiners involving a petition for recommendation for reinstatement of a license are the petitioner for the same and the department.

004.02 Submission of Petition. Each petition for reinstatement shall state the petitioner's full name and current address; date of birth; the type of license, its assigned number and date of issuance thereof; whether the license was suspended, revoked or had limitations placed thereon, the reasons therefor and the date such suspension, revocation or limitation became effective; the petitioner's occupation or activity since the disciplinary action went into effect; and what other states the petitioner is currently licensed in, if any. The petition, except in cases in which the disciplinary measure was imposed for nonpayment of license renewal fees, shall be accompanied by at least two verified recommendations from practitioners of the profession of the petitioner licensed in the State of Nebraska and by at least two recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary measure was imposed. Each petition shall be accompanied by the requisite information and necessary documents, and must be conclusively acted upon by the board of examiners within one hundred eighty days after the filing of the properly prepared petition and necessary accompanying documents with the board of examiners.

004.03 Denials. The petition shall be considered at the next meeting of the board of examiners that is held not earlier than thirty days after the petition was filed. No public hearing need be held on the petition if the board of examiners recommends reinstatement of the license. Before the board of examiners shall deny a petition for recommendation for reinstatement it must grant an opportunity for a formal hearing thereon if formally requested by the petitioner. Whenever the board of examiners shall deny a

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petition, it shall notify the petitioner for reinstatement that a formal hearing will be held thereon only if said petitioner submits a written request therefor the board of examiners within twenty days of the receipt of the denial.

004.04 Notice of Hearing. If the petitioner formally requests opportunity for a formal public hearing, or if such a hearing is otherwise held, the petitioner shall be given at least thirty (30) days' prior notice thereof by sending a copy of the notice of hearing by means of certified or registered mail directed to the petitioner at his last-known residence or business post-office address as shown by the files or records of the Department of Health or as otherwise known, or by means of personal service by being personally served by any sheriff or constable or by any person especially appointed by the board of examiners. The notice of the formal public hearing shall name the person which shall appear as the petitioner for reinstatement; shall state the time, date, and place of the hearing; and shall state the reason or reasons for the proposed denial of reinstatement.

004.05 Consideration. Evidence in a proceeding involving a petition for reinstatement will ordinarily be received in the following order: (1) Petitioner; (2) Board of examiners; and (3) Rebuttal by Petitioner.

004.06 Official Record. The board of examiners shall prepare an official record in all petitions for reinstatement hearings, including testimony and exhibits, but it shall not transcribe shorthand notes unless requested for the purpose of a rehearing or judicial review, in which event the transcript and record shall be furnished by the board of examiners upon request and tender of the cost of preparation.

004.07 Disposition. The petitioner for reinstatement of licensure shall be notified of the decision and recommendation of the board of examiners by certified or registered mail, return receipt requested, no later than one hundred eighty days after the filing of the properly prepared petition and necessary accompanying documents with the board of examiners .

005 FORMAL HEARINGS: PROCEDURE, NOTICE, ETC.

005.01 Setting of Hearings. The time and place of each formal hearing shall be set by the board of examiners within sixty (60) calendar days after any request for a formal public hearing by a petitioner for reinstatement of licensure. Every such formal

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hearing shall be held no later than ninety (90) days after the request therefor.

005.02 Receipt for Filings. If a receipt for filing of any pleading, account, book, document, or paper is desired, letters of transmittal shall be sent in duplicate. One copy showing date of receipt will be returned to the sender.

005.03 Hearing Examiner. Formal hearings shall be conducted by a hearing examiner. The hearing examiner shall be the chairman of the board of examiners.

005.04 Continuances. Any petitioner for reinstatement of licensure who desires a continuance shall, immediately upon receipt of notice of hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the board of examiners, in writing, by letter or telegram, of said desire, stating in detail the reasons why such continuance is necessary. Any such petitioner may be required to submit affidavits in support of such request. For good cause shown, the board of examiners, may grant such a continuance and may at any time order a continuance on its own motion. All requests for continuance shall be filed prior to the hearing involved. Only under exceptional circumstances will requests for continuance of a hearing be considered unless submitted on or before the tenth day prior to the date set for hearing. Any such request subsequent to the opening day of any hearing will be considered only if it involves matters unknown to the petitioner applying prior to said date or other facts, the existence of which would prejudice a hearing and the rights of the petitioner.

005.05 Briefs. Any party desiring to submit a brief concerning the matter presented at any formal hearing may do so by indicating such desire at the close of said hearing. The item and which briefs shall be filed and the number of copies required will be fixed at the close of the hearing by the hearing examiner. Submission of briefs may be required by the board of examiners upon its own motion, or denied in any case.

005.06 Conduct of Hearing. The hearing examiner will, among other things, open the proceedings; enter into the record the notice of hearing; take appearances; act on pleadings not previously filed; hear the evidence as provided for in Subsection 006 and in the order provided in Subdivision 004.05; rule on motions and objections; cross-examine any witnesses; and close the proceedings.

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005.07 Appearances. Any petitioner may appear in his own behalf before the board of examiners. Any individual may appear on behalf of another only if: (a) he is admitted to practice law before the Nebraska Supreme Court, or (b) he is admitted to practice law before the supreme court of any state and is accompanied by a person admitted to practice law before the Nebraska Supreme Court.

005.08 Argument. Ordinarily opening statement and oral arguments following the close of the presentation of evidence will be permitted only insofar as such statements and arguments relate to the presentation and explanation of evidence. However, the hearing examiner may request or permit policy arguments. The board of examiners will hear oral arguments for rehearing where there is a prior request therefore in writing. Unless otherwise ordered by the hearing examiner, oral argument will be limited to twenty minutes by each separate party.

005.09 Rehearing. Motions for rehearing before the board of examiners shall be filed within ten (10) days after the receipt of the board of examiners' recommendation.

005.10 Appeals. Appeals to the District Court from any recommendation of the board of examiners shall follow the statutory requisites set forth in Section 84-917, R.R.S. 1943.

006 EVIDENCE

006.01 Consideration. Evidence will be received in the following order: (1) Petitioner; (2) Board of examiners; and (3) Rebuttal by petitioner.

006.02 General. The board of examiners may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. The hearing examiner may exclude evidence which is incompetent, irrelevant, immaterial, cumulative, or unduly repetitious. However, the petitioner for reinstatement of licensure may request that the board of examiners be bound by the rules of evidence applicable in District Courts by delivering to the board of examiners at least three (3) days prior to the holding of such hearing a written request therefor. Such request shall include the petitioner's agreement to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the

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petitioner shall obtain for the hearing. All costs of a formal hearing shall be paid by the party against whom a final decision is rendered.

006.03 Cross-Examination. In the petition to recommend reinstatement of licensure hearing, each party shall have the right of cross-examination of witnesses who testify.

006.04 Exhibits. When any exhibit consists of three or more pages, each page shall be consecutively numbered at the bottom. Any detailed or complex exhibits consisting of more than three pages or with several distinct parts shall be prefaced with an index.

006.05 Exhibits - Numbered. Each exhibit shall be consecutively marked and numbered.

006.06 Official Files. Any party desiring to introduce into evidence any part or parts of the official files shall obtain copies thereof in advance of the hearing.

006.07 Filing and Serving Exhibits Prior to Hearing. Upon demand by the board of examiners, any petitioner proposing to introduce exhibits into evidence, especially where detailed or complicated exhibits are to be used, shall furnish copies of the exhibits requested to the board of examiners by filing and serving copies of exhibits or other necessary information within a specified time of not less than three (3) days in advance of the hearing in order to enable the board of examiners to study same and prepare cross-examination with reference thereto. Upon proof of demand to furnish and failure to supply the said exhibit, it will be excluded from the hearing unless good and sufficient reason be shown by the petitioner offering the same for failure to furnish or provide said exhibit to the board of examiners demanding the same.

006.08 Documents - Relevant Portions. Relevant portions of books, papers, or documents shall be plainly designated and distinguished from all irrelevant portions before the relevant material may be entered into evidence. Where the irrelevant material in the book, paper or document is voluminous so as to encumber the record, the book, paper or document may be marked for identification and the relevant material read into the record. Upon direction of the hearing examiner, a true copy of the relevant matter may be received as an exhibit in place of the original; PROVIDED THAT, copies are delivered to all parties of record and such parties of record and such parties are afforded an

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opportunity to examine the original from which the same may have been taken.

006.09 Offer of Copies of Exhibits at Hearing. Parties shall furnish accurate copies of all documentary evidence offered at the hearing to the Official Reporter, if any Official Reporter is required by law at such hearing and to the hearing examiner or the petitioner, as the case may be.

006.10 Evidence Outside the Record. Except as provided in Subdivision 006.11 herein, the board of examiners will not consider factual information or evidence in the determination of any proceeding unless the same shall have been offered and made part of the record in the proceeding.

006.11 Official Notice. The board of examiners may take notice of judicially cognizable fact in any proceeding and in addition may take notice of general, technical, or scientific facts within its specialized knowledge. Parties to a proceeding shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the facts so noticed and shall be afforded an opportunity to contest such facts.

006.12 Evaluation of Evidence. The board of examiners may utilize its experience, technical evidence, and specialized knowledge in the evaluation of evidence presented to it.

006.13 Subpoenas. A subpoena requiring the attendance of a witness will be issued by the chairman of the board of examiners, upon written application of the petitioner, or upon its own motion. Subpoenas for the production of accounts, books, documents, or papers, unless directed by the board of examiners on its own motion, will be issued only upon application in writing by a petitioner stating specifically which accounts, books, documents, or papers are required and the facts expected to be proved thereby. All parties directed to produce such accounts, books, documents, or papers shall furnish and deliver the same at the time and place specified by the board of examiners or to a designated representative. A subpoena issued pursuant to this rule shall be served in the manner permitted by law which shall include service by certified or registered mail, return receipt requested. In the case of disobedience to a subpoena, the board of examiners may invoke the aid of the applicable District Court in requiring the attendance and testimony of witnesses and the production of accounts, books, documents, or papers. Charges for serving a subpoena are to be paid prior to the date set for hearing by the party at whose instance the subpoena is issued.

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006.14 Witness Fee. Any witness who is subpoenaed and who responds thereto is entitled to the same fee as is paid for like service in the District Courts of Nebraska. Such fee is to be paid by the party at whose instance the witness's testimony is to be taken. Applications made pursuant to Subdivision 006.13 herein for the attendance of a witness shall be accompanied by a certified check or other sound tender with receipt, payable to the order of the witness, and equal in amount to the witness's traveling fee and a fee for one day's attendance at the hearing. Such certified check, or other sound tender with receipt, shall be tendered the witness when the subpoena is served upon him. Additional fees due the witness, if any, shall be paid at the close of the hearing by the party at whose instance the witness is subpoenaed.

When a subpoena is issued at the request of a board of examiners, the witness shall not be entitled to demand his traveling fees and fee for one day's attendance but shall be required to obey the subpoena if, at the time of service upon him, he is furnished a statement prepared by the board of examiners advising him of the rate of travel fees allowable, the fee for each day's attendance pursuant to the subpoena, and that he will be paid at such rates following his attendance.

APPROVED
DON STENBERG
ATTORNEY GENERAL
BY *[Signature]*
Assistant Attorney General
DATE *September 23, 1993*

APPROVED
SEP 2 1993

[Signature]
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SECRETARY OF STATE
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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 2 FEES

2-001 SCOPE AND AUTHORITY: These regulations establish fees related to the credentialing of individuals and businesses providing health and health-related services under the Uniform Licensing Law (ULL) and, starting December 1, 2008, the Uniform Credentialing Act (UCA).

The credentialing system includes the entire credentialing infrastructure and the process of issuance and renewal of credentials, examinations, inspections, investigations, continuing competency, compliance assurance, and the credentialing review process.

The fees established by these regulations supersede all other fees adopted and promulgated by the Department for the credentialing of these individuals and businesses.

2-002 DEFINITIONS

Credential means a license, certificate, or registration.

Department means the Department of Health and Human Services, Division of Public Health.

2-003 ADMINISTRATIVE FEES

1. \$25 will be retained by the Department from the credentialing fee when a credential is denied or an application is withdrawn. If the credentialing fee is less than \$25, the fee is forfeited. Examination fees are not returned.
2. \$10 for a duplicate original or reissued credential.
3. \$25 for certification of a credential. This includes a certified statement that provides information regarding the basis on which a credential was issued, the date of issuance, and whether disciplinary action has been taken against the credential.
4. \$5 for verification of a credential. This includes written confirmation as to whether a credential is valid at the time the request is made.
5. Until December 1, 2008, \$25 to place a credential on inactive status. On or after December 1, 2008, there will be no fee for inactive status.

2-004 LICENSEE ASSISTANCE PROGRAM (LAP) FEE: A \$1 LAP fee per year is included in each initial credential and renewal fee listed in 172 NAC 2-010.

2-005 LATE FEES AND REINSTATEMENT FEES UNTIL DECEMBER 1, 2008: The Department will collect:

1. A \$25 late fee in addition to the renewal fee to renew a credential within 30 days after the credential's expiration date.
2. A \$35 late fee in addition to the renewal fee to reinstate a credential not more than one year after the date of revocation for failure to meet the renewal requirements.
3. A \$75 late fee in addition to the renewal fee to reinstate a credential more than one year after the date of revocation for failure to meet the renewal requirements.
4. A \$75 fee to reinstate a credential following suspension, limitation, or revocation for disciplinary reasons.

2-006 REINSTATEMENT FEE ON OR AFTER DECEMBER 1, 2008: The Department will collect a reinstatement fee of \$35 in addition to the renewal fee to reinstate an expired or inactive credential. There will be no late fees on or after December 1, 2008.

2-007 PRORATION OF CREDENTIALING FEES: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential. The credential will be valid until the next subsequent renewal date.

2-008 BASE COSTS, VARIABLE COSTS, AND ADJUSTMENTS: The ULL/UCA requires the Department to determine the cost of the credentialing system by calculating the total of the base costs, variable costs, and certain adjustments to revenue, such as earned interest and collection of administrative, reinstatement, and other miscellaneous service fees. Credentialing fees are the primary source of revenue to cover this cost.

1. Base costs of credentialing are the costs common to all professions and businesses under the ULL/UCA and include:
 - a. Salaries and benefits for employees of the Department who work with credentialing activities;
 - b. Shared operating costs for credentialing activities that are not specific to a particular profession or business such as indirect costs, rent, and utilities;
 - c. Costs related to compliance assurance, including investigative costs, contested case costs, and compliance monitoring;
 - d. Costs of the Licensee Assistance Program;

- e. Capital costs, including office equipment and computer hardware or software, which are not specific to a particular profession or business; and
 - f. Other reasonable and necessary costs as determined by the Department.
2. Variable costs of credentialing are the costs unique to a specific profession or business under the ULL/UCA and include the following:
- a. Per diems which are paid to members of the appropriate board;
 - b. Operating costs that are specific to a particular profession or business, including publications, conference registrations, and subscriptions;
 - c. Costs for travel by members of the appropriate board and employees of the Department related to a particular profession or business, including car rental, gas, and mileage charges but not salaries;
 - d. Costs to operate and administer the Nebraska Center for Nursing, which costs are derived from credentialing fees of registered and practical nurses in accordance with the Nebraska Center for Nursing Act; and
 - e. Other reasonable and necessary costs as determined by the appropriate board or Department.

2-009 CREDENTIALING FEES: The Department, with the recommendation of the appropriate board if applicable, is authorized to establish and collect credentialing fees for:

- 1. Initial credentials, including:
 - a. Licensure, certification, or registration;
 - b. Add-on or specialty credentials;
 - c. Temporary, provisional, or training credentials; and
 - d. Supervisory or collaborative relationship credentials;
- 2. Applications to renew licenses, certifications, and registrations;
- 3. Approval of continuing education courses and other methods of continuing competency; and
- 4. Inspections and reinspections.

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2-010 CREDENTIALING FEE AMOUNTS: Credentials are licenses unless otherwise noted, and are renewed biennially unless otherwise noted.

PROFESSION / OCCUPATION / BUSINESS	INITIAL	RENEWAL	OTHER CREDENTIALING FEES (IF ANY)
Acupuncture	\$300	\$121	
Alcohol / Drug Counseling	\$175	\$175	\$100 examination fee
Provisional Alcohol / Drug Counseling	\$275	\$175	
Athletic Training	\$117	\$117	
Audiologist	\$140	\$140	
Certification to Supervise Audiology Assistant	\$25	NA	
Temporary	\$140	NA	
Audiology Assistant, Registered (annual)	\$60	\$60	
Body Art			
Body Brander	\$95	\$118	
Body Piercer	\$95	\$118	
Guest Body Artist, Registered	\$30	NA	
Permanent Color Technician	\$95	\$118	
Tattoo Artist	\$95	\$118	
Body Art Facility	\$150	\$150	\$50 for reinspection if required
Chiropractic	\$144	\$144	
Cosmetology			\$30 for continuing competency programs; may include program in esthetics and/or nail technology.
Cosmetician, Registered	\$95		
Cosmetologist	\$95	\$118	Cost of examination
Temporary	\$25	NA	
Cosmetology Instructor	\$50	\$50	Cost of examination
Temporary	\$25	NA	
Guest Artist, Registered	\$30	NA	
Cosmetology Establishments			
Apprentice Salon	\$300	\$300	\$50 for reinspection if required
Cosmetic Establishment	\$150	\$150	\$50 for reinspection if required
Cosmetology Salon	\$150	\$150	\$50 for reinspection if required
Home Service Permit	\$118	\$118	\$50 for reinspection if required
School of Cosmetology	\$300	\$300	\$150 to transfer location within county
Satellite Classroom	\$200	\$200	\$50 for reinspection if required

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PROFESSION / OCCUPATION / BUSINESS	INITIAL	RENEWAL	OTHER CREDENTIALING FEES (IF ANY)
Delegated Dispensing Permit (annual)			
Dialysis Drug or Device Distributor	\$125	\$75	
Medical Gas Distributor	\$125	\$75	
Public Health Clinic	\$125	\$75	
Dental Faculty	\$165	\$165	
Dentistry	\$165	\$165	
Temporary	\$50	NA	
General Anesthesia Permit (four-year renewal)	\$200	\$200	
Inhalation Analgesia Permit (four-year renewal)	\$200	\$200	
Parenteral Sedation Permit (four-year renewal)	\$200	\$200	
Dental Hygiene	\$110	\$110	
Local Anesthesia Certificate	\$25	NA	
Electrology			\$30 for continuing competency programs
Electrologist	\$95	\$118	Cost of examination
Electrology Instructor	\$50	\$50	Cost of examination
Emergency Medical Services	NA	NA	Administrative fees, late fees, and reinstatement fees only
Environmental Health Specialists, Registered	\$116	\$116	
Environmental Health Specialist Trainee, Registered	\$116	NA	
Esthetics			\$30 for continuing competency programs; may include program in cosmetology and/or nail technology
Esthetician	\$95	\$118	Cost of examination
Esthetics Instructor	\$50	\$50	Cost of examination
Esthetics Salon	\$150	\$150	\$50 for reinspection if required
School of Esthetics	\$300	\$300	\$50 for reinspection if required; \$300 to transfer location within county
Apprentice Salon	\$300	\$300	\$50 for reinspection if required
Funeral Directing / Embalming	\$90	\$90	
Apprentice, Registered	\$25	NA	
Embalming	NA	\$15	
Funeral Directing	NA	\$15	
Funeral / Branch Establishments	\$250 / \$75	\$250 / \$75	\$100 / \$50 for location change; \$10 for manager change; \$10 for name change
Hearing Aid Instrument Dispensing / Fitting	\$165	\$165	

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PROFESSION / OCCUPATION / BUSINESS	INITIAL	RENEWAL	OTHER CREDENTIALING FEES (IF ANY)
HAID license based on Audiology license	\$25	\$165	
Temporary (one-time renewal)	\$85	\$85	
Massage Therapy	\$110	\$110	
Temporary	\$25	NA	
Massage Therapy Establishments	\$127	\$127	\$127 for location change; \$10 for name change; \$10 for owner change
Massage Therapy Schools	\$150	\$150	\$150 for location change; \$10 for name change; \$10 for owner change
Medical Nutrition Therapy	\$114	\$114	
Medical Radiographer	\$146	\$146	
Limited Radiographer	\$146	\$146	\$70 examination fee
Temporary Medical Radiographer	\$15	NA	
Medicine / Surgery	\$300	\$121	
Approval to Supervise Physician Assistant	\$150	\$110	
Locum Tenens Permit	\$100	NA	
Temporary Educational Permit (annual)	\$25	\$25	
Temporary Visiting Faculty Permit (annual)	\$25	\$25	
Mental Health Practice			
Mental Health Practitioner	\$155	\$155	
Independent Mental Health Practitioner (without LMHP license)	\$155	\$155	
Independent Mental Health Practitioner (with LMHP license)	\$50	\$50	
Marriage / Family Therapy, Certified	\$50	\$50	
Professional Counseling, Certified	\$50	\$50	
Master Social Work, Certified	\$50	\$50	
Master Social Work, Certified (without LMHP license)	\$125	\$125	
Social Work, Certified	\$125	\$125	
Provisional Mental Health Practitioner (with or without PCMSW)	\$125	NA	
Provisional Master Social Worker (without PLMHP)	\$125	NA	
Nail Technology			\$30 for continuing competency programs; may include program in cosmetology and/or esthetics.
Nail Technician	\$95	\$118	Cost of examination
Nail Technology Instructor	\$50	\$50	Cost of examination
Nail Technology Salon	\$150	\$150	\$50 for reinspection if required
Nail Technology School	\$300	\$300	\$50 for reinspection if required; \$300 to

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PROFESSION / OCCUPATION / BUSINESS	INITIAL	RENEWAL	OTHER CREDENTIALING FEES (IF ANY)
			transfer location within county
Nursing, Registered / Practical	\$123 / \$123	\$123 / \$123	
Advanced Practice Nursing (in addition to RN license)	\$68	\$68	
Licensed Practical Nurse, Certified (in addition to LPN license)	\$68	\$68	
Nursing Home Administration	\$166	\$166	\$25 for continuing education programs
Administrator-in-Training / Mentoring	\$50	NA	
Preceptor, Certified (four-year renewal)	\$25	\$25	
Provisional Nursing Home Administrator	\$110	NA	
Occupational Therapist	\$120	\$120	\$120 for certification to apply Deep Thermal Agents Modality, Electrotherapeutic Agents Modality, Superficial Thermal Agents Modality, or combination of modalities
Temporary	\$25	NA	
Occupational Therapy Assistant	\$120	\$120	\$120 for certification to apply Superficial Thermal Agents Modality
Temporary	\$25	NA	
Optometry	\$146	\$146	\$10 for diagnostic certification; \$10 for therapeutic certification
Osteopathic Medicine	\$300	\$121	
Osteopathic Medicine / Surgery	\$300	\$121	
Perfusion	\$150	\$110	
Pharmacist	\$178	\$178	
Pharmacist Intern, Registered	\$50	NA	
Pharmacy Technician, Registered	\$25	\$25	
Temporary Educational Permit (annual)	\$50	\$50	
Physical Therapist	\$133	\$133	
Physical Therapist Assistant, Certified	\$90	\$90	
Physician Assistant	\$150	\$110	
Podiatry	\$131	\$131	
Psychology	\$183	\$183	
Provisional	\$50	NA	
Special License	NA	\$183	
Temporary	\$50	NA	
30-Day	\$50	NA	

EFFECTIVE
8/30/08

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 2

PROFESSION / OCCUPATION / BUSINESS	INITIAL	RENEWAL	OTHER CREDENTIALING FEES (IF ANY)
Upgrade Special License to Full License	\$50	NA	
Psychological Assistant, Registered	\$50	NA	
Psychologist Associate, Registered	\$50	NA	
Respiratory Care	\$118	\$118	
Speech-Language Pathologist	\$140	\$140	
Certification to Supervise Speech-Language Pathology Assistant	\$25	NA	
Speech-Language Pathology Assistant, Registered	\$60	\$60	
Temporary	\$140	NA	
Veterinary Medicine / Surgery	\$250	\$168	
Veterinary Technician	\$100	\$63	\$130 examination fee

Approved by the Attorney General: August 18, 2008
Approved by the Governor: August 25, 2008
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TITLE 172
NEBRASKA ADMINISTRATIVE CODE

NOV 18 1996

Chapter 3

REGULATIONS ESTABLISHING DEFINITIONS OF CONFLICTS OF INTEREST
FOR MEMBERS OF THE BOARDS OF EXAMINERS IN THE HEALTH PROFESSIONS

001 SCOPE OF DEFINITION. As used in these regulations, the term "member of a board of examiners in the health professions" shall mean a member of one of the following: the boards of examiners set forth in the Uniform Licensing Law, Neb. Rev. Stat. 71-112, Board of Nursing, Board of Hearing Aid Instrument Dispensers and Fitters, Board of Registration for Environmental Health Specialists, Board of Advanced Emergency Medical Care, Board of Occupational Therapy Practice, Board of Examiners in Massage, Board of Cosmetology Examiners, and Board of Advanced Registered Nurse Practitioners. Each of the situations described in this section shall be considered a conflict of interest on the part of a member of a board of examiners in the health professions.

001.01 No member of a board of examiners in the health professions shall solicit or accept anything of value, including a gift, loan, contribution, reward, or promise of future employment, for himself or herself, or for a member of his or her immediate family or for a business with which any such individual is associated, based on an agreement that the vote, official action, or judgment of the member of a board of examiners in the health professions would be influenced thereby.

001.02 No member of a board of examiners in the health professions shall use that public office or any confidential information received through the holding of the position of board member to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which any such individual is associated.

001.03 No member of a board of examiners in the health professions shall use personnel, resources, property, or funds under that board member's official care and control, other than in accordance with prescribed constitutional, statutory, and regulatory procedures, or use such items, other than compensation provided by law, for personal financial gain or for the financial gain of a member of his or her immediate family or a business with which any such individual is associated.

001.04 Except as otherwise provided by law, no member of a board of examiners in the health professions, a member of that board member's immediate family, or a business with which any such individual is associated shall enter into a contract valued at two thousand dollars or more, in any one year, with the Department of Health unless the contract is awarded through an open and public process which includes prior public notice and subsequent availability for public inspection during the regular office hours of the Department of Health of the proposals considered and the contract awarded. No contract may be divided for the purposes of evading the requirements of this subsection. This subsection is intended to prevent a member of a board of examiners in the health professions from engaging in certain activities under circumstances creating a substantial conflict of interest and is not intended to penalize innocent persons and a contract shall not be absolutely void by reason of this subsection.

002 RESOLUTION OF CONFLICT OF INTEREST. A member of a board of examiners in the health professions who, in the discharge of his or her official duties, would be required to take any action or make any decision that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally, or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict of interest, or should reasonably be aware of such potential conflict, whichever is sooner:

002.01 Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

002.02 Deliver a copy of the statement to the Nebraska Accountability and Disclosure Commission; and

002.03 Deliver a copy of the statement to the Director of Health.

002.04 The member of a board of examiners in the health professions shall also exercise one or more of the following steps to remove himself or herself from influence over actions and decisions on the matter:

002.04A Refrain from discussion with other board members of those matters on which a conflict exists, or

002.04B Abstain from voting on the matter on which the potential conflict exists whether by voice vote, secret ballot, or any other method.

002.05 This restriction shall not prevent a member of a board of examiners in the health professions from making or participating in the making of a board decision to the extent that the board member's participation is legally required for the action or decision to be made, and no action could be taken by the board of examiners otherwise due to lack of a quorum or other reason. However, in such event the member of a board of examiners in the health professions shall report the occurrence to the Director of Health and to the Nebraska Accountability and Disclosure Commission.

003 DISCIPLINARY MEASURES. Any member of a board of examiners in the health professions violating the provisions of subsections 001.01, 001.02 or 001.03 shall be guilty of a Class III misdemeanor pursuant to Neb. Rev. Stat. §49-14,101, which upon conviction can result in a maximum penalty of three months imprisonment or five hundred dollars fine, or both, with no minimum penalty, pursuant to Neb. Rev. Stat. §28-106. A contract involving a prohibited conflict of interest under subsection 001.04 shall be voidable pursuant to Neb. Rev. Stat. §49-14,103. Violation of any of the provisions of section 001 or failure to take any of the steps outlined in section 002 shall constitute malfeasance in office and due cause for action of removal of a member

TITLE 172
CHAPTER 3

from the board of examiners pursuant to Neb. Rev. Stat. §71-118, other appropriate statute, or Article IV, Section 10 of the Constitution of the State of Nebraska, as applicable.

SOURCE: Nebraska Revised Statutes Sections 71-115.01, 71-379, 49-1493(7),
49-1499, 49-14,101, 49-14,102, 49-14,103 (Reissue 1986);
71-1,132.07(4), 71-4715.01, 71-3706, 71-5507.01, 71-6115(2),
71-2704.01 (Supp. 1987)

FILED

JAN 2 1997

[Signature]
Secretary of State

APPROVED

JAN 2 1997

[Signature]
BENJAMIN NELSON
GOVERNOR

8

Amendments
APPROVED
DON STENBERG
ATTORNEY GENERAL

NOV 18 1996

BY *[Signature]*
Assistant Attorney General

EFFECTIVE DATE
JULY 5, 2015

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 4

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 4 CREDENTIALING REVIEW PROGRAM

4-001 SCOPE AND AUTHORITY: These regulations are intended to implement the Nebraska Regulation of Health Professions Act, Neb. Rev. Stat. §§ 71-6201 to 71-6229. The Act establishes guidelines for the regulation of health professions which are not regulated and those regulated health professions which seek to change their scope of practice. Credentialing review is the process by which the Act is implemented. These regulations establish standards for the use of criteria by review bodies in recommending whether proposals for regulation or change in scope of practice meet the criteria.

4-002 DEFINITIONS

Applicant group means any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not previously regulated be regulated by the Division or which proposes to change the scope of practice of a regulated profession.

Application means the document prepared by the applicant group that contains the proposal and evidence supporting or explaining the proposal

Board means the State Board of Health.

Chairperson means the chairperson of the Health and Human Services Committee of the Legislature.

Committee means the technical committee created in Neb. Rev. Stat. § 71-6224.

Credentialing means the process of regulating health professions by means of registration, certification, or licensure.

Directed review means a review conducted at the request of the Director and the Chairperson.

Director means the Director of Public Health of the Division of Public Health of the Department of Health and Human Services.

Division means the Division of Public Health of the Department of Health and Human Services.

Health profession means a vocation involving health services, health-related services, or environmental services requiring specialized knowledge and training. Health profession does not include the vocation of duly recognized members of the clergy acting in their ministerial capacity.

Health professional group not previously regulated means those persons or groups who are not currently licensed or otherwise regulated under the Uniform Credentialing Act, who are determined by the Director to be qualified by training, education, or experience to perform the functions prescribed in this section, and whose principal functions, customarily performed for remuneration, are to render services directly or indirectly to individuals for the purpose of:

1. Preventing physical, mental, or emotional injury or illness, excluding persons acting in their capacity as clergy;
2. Facilitating recovery from injury or illness;
3. Providing rehabilitative or continuing care following injury or illness; or
4. Providing any other health service, health-related service, or environmental service which may be subject to regulation by the Division.

Level of evidence means the following ranking of the strength of these types of evidence, in descending order:

1. Randomized trial;
2. Comparison groups;
3. Pre- vs. post-comparison;
4. Correlation study;
5. Case study; and
6. Anecdotal.

Other evidence may be considered and given appropriate weight.

Practitioner means an individual who has achieved knowledge and skill by the practice of a specified health profession and is actively engaged in such profession.

Proposal means the concept submitted for review under the Nebraska Regulation of Health Professions Act for either (a) regulating a health profession that is not currently regulated in Nebraska or (b) changing the scope of practice of a regulated health profession.

Regulated health professions means those persons or groups who are currently licensed or otherwise regulated under the Uniform Credentialing Act, who are qualified by training, education, or experience to perform the functions prescribed in this section, and whose principal functions, customarily performed for remuneration, are to render services directly or indirectly to individuals for the purpose of:

1. Preventing physical, mental, or emotional injury or illness;
2. Facilitating recovery from injury or illness;
3. Providing rehabilitative or continuing care following injury or illness; or

4. Providing any other health service, health-related service, or environmental service which may be subject to regulation by the Division.

Review body means the committee, the board, or the director charged with reviewing applications for new credentialing or change in scope of practice.

Scope of practice means the activities, functions, procedures, and responsibilities of a licensed health profession as defined by the profession's licensure statute as well as any statutory provisions that restrict or limit the circumstances or location in which the activities may occur.

4-003 APPLICATION PROCESS

4-003.01 Letter of Intent: Representatives of applicant groups must submit a letter of intent to the Director which includes the following:

1. The identity of the applicant group;
2. Contact information for the applicant group;
3. A brief summary of the legislative changes being sought;
4. The expected date of completion of the applicant's proposal; and
5. A \$500 dollar fee, or if not, a request for waiver of the fee. Such fee is not refundable.

4-003.02 Waiver of the Fee: The Director has discretion of waiving some, or all, of the \$500 fee. Circumstances under which a waiver may be granted include, but are not limited to, the following:

1. The applicant group is an agency of local, state, or federal government;
2. Members of the applicant group will not be materially affected by the implementation of the proposed regulation or change in scope of practice; or
3. Payment of the application fee would result in an unreasonable hardship on members of the applicant group.

4-003.03 Review of the Letter of Intent and Applicant Eligibility: The Director must review the letter of intent and respond within fifteen days whether the applicant group is eligible for review, and whether their request for waiver of the fee has been accepted, if such a request was made. If a request for waiver of the fee is denied, the fee must be submitted before any further action on the application can proceed.

4-003.04 Application: After the Director has determined that an applicant group is eligible for review, the applicant group must submit to the Director a complete application.

4-003.04A Completeness of an application: A complete application consists of the following:

1. Identification of the applicant group;
 - a. Name of the applicant group;
 - b. Composition of the applicant group; and
 - c. Relationship of the applicant group to the proposal;

2. Contact information (mailing address, telephone number, e-mail address, etc.) for the applicant group;
3. A description of the proposal, which includes answers to the questions contained in Attachment 1, incorporated herein by this reference; and
4. An explanation of:
 - a. The problem created by not regulating a health professional group not previously regulated or by not changing the scope of practice of a regulated health profession;
 - b. If the application is for the regulation of a health professional group not previously regulated, all feasible methods of regulation, including those methods listed in Neb. Rev. Stat. § 71-6222, and the impact of such methods on the public;
 - c. The benefit to the public of regulating a health professional group not previously regulated or changing the scope of practice of a regulated health profession;
 - d. The extent to which regulation or the change of scope of practice might harm the public;
 - e. The type of standards that exist to ensure that a practitioner of a health profession would establish and maintain competency;
 - f. A description of the health professional group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group, and whether the groups represent different levels of practice;
 - g. The role and availability of third-party reimbursement for the services provided by the applicant group;
 - h. The experience of other jurisdictions in regulating the practitioners affected by the application, in particular, any experience gained relative to the proposed authority;
 - i. The expected costs of regulation, including (i) the impact registration, certification, or licensure will have on the costs of the services to the public and (ii) the cost to the state and to the general public of implementing the proposed legislation.

4-003.04B Amending or Withdrawing a Proposal: A proposal may be amended only by the applicant group and only with the approval of a majority of the technical review committee members. A proposal can only be amended prior to the public hearing on the proposal. The applicant group may withdraw the proposal at any time.

4-004 TECHNICAL REVIEW COMMITTEE REQUIREMENTS IN REVIEWS INITIATED BY APPLICATION

4-004.01 Each committee shall be chaired by a member of the Board. Board members who serve as committee chairpersons must have no bias, personal or professional regarding the issues under review.

4-004.02 Each committee must be established so that it is fair, impartial, and equitable regarding the issues under review.

4-004.03 No more than one representative of any given health profession may serve on any particular committee.

4-004.04 After an applicant group's proposal has been accepted for review the Director is required to appoint an appropriate committee with the advice of the Board pursuant to the Act.

4-004.05 All technical review committee meetings must be open to the public and must conform to the Nebraska Open Meetings Act.

4-004.06 At least one public hearing must be held during the review process for each proposal at which members of the public are allowed to submit comments to the members of the committee.

4-004.07 Each committee must prepare and submit a report of recommendations on each proposal under review to the Board and the Director.

4-005 DIRECTED REVIEWS

4-005.01 Initiating a Directed Review: The Director and the Chairperson may initiate a directed review after determining that no appropriate applicant group exists.

4-005.02 Technical Review Committee Requirements for directed reviews:

4-005.02A Each committee shall be chaired by a member of the Board. Board members who serve as committee chairpersons must have no bias, personal or professional regarding the issues under review.

4-005.02B Each committee must be established so that it is fair, impartial, and equitable regarding the issues under review.

4-005.02C No more than one representative of any given health profession may serve on any particular committee.

4-005.02D: After initiating a directed review, the Director is required to appoint an appropriate committee with the advice of the Board.

4-005.02E: All committee meetings must be open to the public and must conform to the Nebraska Open Meetings Act.

4-005.02F: At least one public hearing must be held during the review process for each proposal, at which members of the public are allowed to submit comments to the committee.

4-005.02G: In a directed review, the committee must develop a proposal to address the issues defined by the Director and the Chairperson.

4-006 CRITERIA AND STANDARDS FOR A NEW CREDENTIAL: The Nebraska Regulation of Health Professions Act sets out criteria for new credentialing of a health profession. These are professions currently not credentialed but allowed to practice in Nebraska. The review body must determine whether the following criteria are met.

4-006.01 Criterion One: Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that the public is suffering harm or danger, that the harm or danger is clearly and directly attributable to the absence of regulation of the profession, and that this harm or danger is of sufficient magnitude to warrant state intervention.
2. Documentation of harm or danger to the public must be sufficient to demonstrate that the harm or danger is clear, that it is attributable to the lack of regulation of the profession in question. Evaluation of harm or danger is based on the highest level of evidence available.
3. Harm or danger to the public must be clearly, directly, and primarily attributable to the absence of regulation of the profession. Evidence of harm or danger that cannot meet this test must not be considered.
4. Harm or danger to the health, safety, or welfare of the public may occur in physical, emotional, economic, or social contexts.
5. Harm or danger to the public must be of sufficient extent and severity to warrant governmental intervention. A certain level of harm or danger attributable to human error and uncontrollable factors will always occur within any health care field.

4-006.02 Criterion Two: Regulation of the health profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that regulating the profession would not, in itself, bring about significant harm or danger to the health, safety, or welfare of the public through the creation of unnecessary barriers to service.

2. Documentation of harm or danger to the public must be sufficient to demonstrate that the harm or danger is clear, that it is attributable to the creation of the separate regulated profession in question, and that it is serious and extensive. Evaluation of harm or danger is based on the highest level of evidence available.
3. Harm or danger to the public may occur in physical, emotional, economic, or social contexts.
4. Evidence supporting the status quo must clearly demonstrate how and why this situation protects the public from harm or danger.
5. Evidence must show the benefits of creating the new regulated health profession clearly to be greater in extent and impact than any harm or danger that would be created.
6. If regulation of the profession would require a scope of practice to be defined, the scope of practice must be coordinated with those of regulated professions to minimize fragmentation of the health care system.
7. Regulation of the profession must not lead to unnecessary limitations on the utilization of personnel by employers or to underutilization of qualified personnel.
8. Regulation of the profession must not result in an unnecessary reduction in competition.

4-006.03 Criterion Three: The public needs assurance from the state of initial and continuing professional ability.

The review body must apply the following standards in determining whether this criterion is met:

1. In order to find that this criterion is met for a profession whose practice is typically autonomous, the review body must determine that the need of the public for this assurance can be demonstrated, that members of the public play an active role in choosing their caregiver, that information about the qualifications of the caregiver is an important element in making that choice, and that currently there is no mechanism that will provide such information as effectively as would the issuance of a State credential.
2. In order to find that this criterion is met for a profession whose practice typically is not autonomous, the review body must determine that the institutional or supervisory structure is inadequate to protect the public from harm, and that the issuance of a State credential to the practitioners of this profession would overcome these inadequacies.

3. Evidence presented must show why a state-issued credential is necessary to allow the public to identify competent practitioners. This is especially significant for professions that already have a strong recognized private system of credentialing.
4. If there is a recognized system of private credentialing, the proposed requirements for obtaining state credentialing must be compared closely to those for private credentialing. If they are essentially identical, there must be compelling evidence to show why such redundancy is in the public interest.
5. Evidence must show that if practitioners are generally supervised by members of other credentialed professions, or if they practice under institutional or similar regulation, it must be demonstrated that such supervision or regulation is not sufficient to protect the public.
6. Evidence must show that members of the public are unable easily to evaluate the qualifications of persons offering the service in question.
7. The review body must evaluate whether the education and training requirements set forth in the proposal are necessary and adequate for safe and effective practice.

4-006.04 Criterion Four: The public cannot be protected by a more effective alternative.

The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that the credentialing proposal as presented to the review body is an effective remedy to the harm or danger identified, and that no other evident means of dealing with this harm or danger, including the status quo, would provide a more effective alternative.
2. Viable alternatives to this proposal must be identified, if available, in terms of being able to address the same harm or danger as was raised in the applicant proposal.
3. Evidence supporting the proposal must show that its enactment would clearly, specifically, and directly solve or alleviate the problems, including harm or danger to the public, that are used to justify the application.
4. Any and all evident alternatives to the proposal must be evaluated to determine if they might provide the same (or greater) problem-solving potential as the proposal, while being more cost-effective or less restrictive. Alternatives may include different levels or types of state credentialing or regulation of the profession, maintenance of the status quo, and other potential solutions. Reviewers are not limited to evaluating only alternatives presented to them by the applicant group; they must actively seek to identify and analyze potential alternatives whenever they can. The recommendations of the reviewing body

must reflect their best assessment of the most likely solution to the problems identified.

5. The costs of the proposal, and of any alternatives considered, must be evaluated.

4-007 CRITERIA AND STANDARDS FOR A PROFESSION NOT CURRENTLY ALLOWED TO PRACTICE IN NEBRASKA: The Nebraska Regulation of Health Professions Act sets out criteria for the regulation of a profession not currently allowed to practice in Nebraska. These are professions currently not credentialed and currently not allowed to practice in Nebraska. The review body must determine whether the following criteria are met.

4-007.01 Criterion One: Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public.

The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that the public is suffering harm or danger, that the harm or danger is clearly and directly attributable to the absence of the separately regulated health profession under review, and that this harm or danger is of sufficient magnitude to warrant state intervention.
2. Documentation of harm or danger to the public must be sufficient to demonstrate that the harm or danger is clear, that it is attributable to the absence of the separate regulated health profession in question. Evaluation of harm or danger is based on the highest level of evidence available.
3. Harm or danger to the public must be clearly, directly, and primarily attributable to the absence of the separate regulated profession. Evidence of harm or danger that cannot meet this test must not be considered.
4. Harm or danger to the health, safety, or welfare of the public may occur in physical, emotional, or social contexts.
5. Harm or danger to the public must be of sufficient extent and severity to warrant governmental intervention. A certain level of harm or danger attributable to human error and uncontrollable factors will always occur within any health care field.

4-007.02 Criterion Two: Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public.

The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that any harm or danger that might result from the creation of the separate regulated profession would not be outweighed by the benefits of providing legal access to the profession in question.
2. Documentation of harm or danger to the public must be sufficient to demonstrate that the harm or danger is clear, that it is attributable to the creation of the separate regulated profession in question, and that it is serious and extensive. Evaluation of harm or danger is based on the highest level of evidence available.
3. Harm or danger to the public may occur in physical, emotional, economic, or social contexts.
4. Evidence supporting the status quo must clearly demonstrate how and why this situation protects the public from harm or danger.
5. Evidence must show the benefits of creating the new regulated health profession clearly to be greater in extent and impact than any harm or danger that would be created.
6. If regulation of the profession would require a scope of practice to be defined, the scope of practice must be coordinated with those of regulated professions to minimize fragmentation of the health care system.
7. Regulation of the profession must not lead to unnecessary limitations on the utilization of personnel by employers or to underutilization of qualified personnel.
8. Regulation of the profession must not result in an unnecessary reduction in competition.

4-007.03 Criterion Three: Creation of a separate regulated profession would benefit the health, safety, or welfare of the public.

The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that creation of a separate regulated profession would likely produce widespread benefits for the public, and that the amount and extent of the benefits would outweigh any possible harm or danger that might be caused by creating this newly credentialed and legalized profession.
2. Documentation of benefits to the public must be sufficient to demonstrate that there is a realistic expectation of their occurrence following enactment of the desired legislation, and that they will be of significant amount and extent. Evaluation of benefits to the public is based on the highest level of evidence available.

3. The extent and amount of benefit to the public must clearly outweigh any potential harm or danger to the public that might be brought about by the creation of a separate regulated profession.
4. Benefits to the public may occur in physical, emotional, economic, or social contexts.
5. The review body must evaluate whether the education and training requirements set forth in the proposal are necessary and adequate for safe and effective practice.

4-007.04 Criterion Four: The public cannot be protected by a more effective alternative. The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that creation of the separately regulated profession would be an effective remedy to the harm or danger identified, and that no other evident means of dealing with this harm or danger, including the status quo, would provide a more effective alternative.
2. Viable alternatives to this proposal must be identified, if available, in terms of being able to address the same harm or danger as was raised in the applicant proposal.
3. Evidence supporting the proposal must show that its enactment would clearly, specifically, and directly solve or alleviate the problems, including harm or danger to the public, that are used to justify the application.
4. Protection of the public must be interpreted as protecting it both from any harm or danger caused by absence of the profession, and from any harm or danger caused by permitting the separate practice of the profession.
5. Any and all evident alternatives to the proposal must be evaluated to determine if they might provide the same (or greater) problem-solving potential as the proposal, while being more cost-effective or less restrictive. Alternatives may include different levels or types of state credentialing or regulation of the profession, maintenance of the status quo, and other potential solutions. Reviewers are not limited to evaluating only alternatives presented to them by the applicant group; they must actively seek to identify and analyze potential alternatives whenever they can. The recommendations of the reviewing body must reflect their best assessment of the most likely solution to the problems identified.
6. The costs of the proposal, and of any alternatives considered, must be evaluated.

4-008 CRITERIA AND STANDARDS FOR A CHANGE IN SCOPE OF PRACTICE OF A REGULATED PROFESSION: The Nebraska Regulation of Health Professions Act sets out criteria for a change in scope of practice of a regulated profession. The review body must determine whether the following criteria are met.

4-008.01 Criterion One: The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that at least one of the following is occurring:
 - a. The cost of the services in question is prohibitive for some members of the public under the current limitations on scope of practice.
 - b. Access to the services in question is very difficult for some members of the public under the current limitations on scope of practice.
 - c. The quality of the services in question is adversely impacted under the current limitations on scope of practice.
 - d. The range of services of the profession under review is too limited under the current scope of practice raising concerns about consumers having to access the services of other providers whose practices are not as accessible or whose services are more costly.
 - e. Actual harm or danger to the public health and safety is occurring because of the absence of the proposed scope of practice.

4-008.02 Criterion Two: Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

The review body must apply the following standards in determining whether this criterion is met:

1. The review body must determine that enactment of the proposed changes in scope of practice would produce widespread benefits for the public, and that the amount and extent of the benefits would outweigh any potential harm or danger to the public that might be caused by enactment of these changes.
2. Documentation of benefits to the public must be sufficient to show that there is a realistic expectation of their occurrence following enactment of the proposed changes in scope of practice, and that they would be of significant amount and extent. Evidence from other jurisdictions in which the profession has practiced with the proposed change in scope of practice is preferred if available.
3. Benefit to the public may occur in physical, emotional, economic, or social contexts.
4. Benefit must occur in at least one of the topic areas listed in 172 NAC 4-006.01.

4-008.03 Criterion Three: The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

The review body must apply the following standards in determining whether this criterion is met:

1. Evaluation of physical, emotional, economic, or social danger to determine whether any evident danger would be:
 - a. Created by the proposed change in scope of practice: and
 - b. Significant enough to outweigh the benefits of implementing the proposed change in scope of practice.
2. Evaluation of danger is based on the highest level of evidence available.

4-008.04 Criterion Four: The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

The review body must apply the following standards in determining whether this criterion is met:

1. Analysis of the current education and training must show that it adequately prepares the practitioners in question to perform the new skill or service being proposed in a safe and effective manner.
2. Evidence must be presented to demonstrate that the current education and training is adequately and appropriately accredited.

4-008.05 Criterion Five: There are appropriate post-professional programs and competence assessment measures available to ensure that the practitioner is competent to perform the new skill or service in a safe manner.

The review body must apply the following standards in determining whether this criterion is met:

1. It must be determined that there are such programs in place and that an analysis of these programs shows that they are adequate to ensure that the practitioners in question are able to perform the new skill or service being proposed in a safe and effective manner.
2. Evidence must be presented to demonstrate that these programs comply with acceptable standards.
3. Evidence must be presented to demonstrate that these programs are available and at a cost that is not prohibitive.

EFFECTIVE DATE
JULY 5, 2015

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 4

4-008.06 Criterion Six: There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

The review body must apply the following standards in determining whether this criterion is met:

1. Practitioners of the proposed new scope of practice must be subject to the complaint, investigation, and discipline provisions of the Uniform Credentialing Act.
2. If the proposed new scope of practice will be implemented through the issuance of a new credential, appropriate continuing competency requirements must be established for that credential.

ATTACHMENT 1

**ADDITIONAL QUESTIONS AN APPLICANT GROUP MUST ANSWER ABOUT THEIR
PROPOSAL PURSUANT TO 172 NAC 4-003.04A, item 3.**

1. Identify by title, address, telephone number, e-mail address, and website of any other groups, associations, or organizations in Nebraska whose membership consists of any of the following:
 - a. members of the same occupation or profession as that of the applicant group,
 - b. members of the occupation dealt with in the application,
 - c. employers of the occupation dealt with in the application,
 - d. practitioners of the occupations similar to or working closely with members of the occupation dealt with in the application,
 - e. educators or trainers of prospective members of the occupation dealt with in the application,
 - f. citizens familiar with or utilizing the services of the occupation dealt with in the application (e.g., advocacy groups, patient rights groups, volunteer agencies for particular diseases or conditions, etc.),
 - g. any other group that would have an interest in favor of, or unfavorable to, your application.
2. If the profession is currently credentialed in Nebraska, provide the current scope of practice of this occupation as set forth in state statutes. If a change in this scope of practice is being requested, identify that change.
3. If the profession is not currently credentialed in Nebraska describe the proposed scope of practice, or the functions and procedures of this group.
4. Describe in detail the functions typically performed by practitioners of this occupation, and identify what if any specific statutory limitations have been placed on these functions, and if possible, explain why the Legislature created these restrictions.
5. Identify other occupations that perform some of the same functions or similar functions.
6. What functions are unique to this occupation? What distinguishes this occupation from those identified in question 5?
7. Identify other occupations whose members regularly supervise members of this occupation, as well as other occupations whose members are regularly supervised by this occupation. Describe the nature of the supervision that occurs in each of these practice situations.
8. What actions, judgments, and procedures of this occupation can typically be carried out without supervision or orders? To what extent is this occupation, or portions of its practice, autonomous?

9. Approximately how many people are performing the functions of this occupation in Nebraska, or are presenting themselves as members of this occupation? To what extent are these people credentialed in Nebraska?
10. Describe the general level of education and training possessed by practitioners of this occupation, including any supervised internship or fieldwork required for credentialing. Typically, how is this education and training acquired?
11. Identify the work settings typical of this occupation (e.g., hospitals, private physician offices, clinics, etc.) and identify the predominant practice situations of practitioners, including typical employers for practitioners not self-employed (e.g., private physician, dentist, optometrist, etc.).
12. Do practitioners routinely serve members of the general population? Are services frequently restricted to certain segments of the population (e.g., senior citizens, pregnant women, etc.)? If so, please specify the type of population served.
13. Identify the typical reasons a person would have for using the services of a practitioner. Are there specific illnesses, conditions or situations that would be likely to require the services of a practitioner? If so, please specify.
14. Identify typical referral patterns to and from members of this occupational group. What are the most common reasons for referral?
15. Is a prescription or order from a practitioner of another health occupation necessary in order for services to be provided?
16. How is continuing competence of credentialed practitioners evaluated?
17. What requirements must the practitioner meet before his or her credentials may be renewed?
18. Identify other jurisdictions (states, territories, possessions, or the District of Columbia) wherein this occupation is currently regulated by the government, and the scopes of practice typical for this occupation in these jurisdictions

STATE OF NEBRASKA

Rules and Regulations

Relating to:

**MANDATORY REPORTING BY HEALTH CARE PROFESSIONALS,
FACILITIES, PEER REVIEW ORGANIZATIONS, PROFESSIONAL
ASSOCIATIONS, AND INSURERS**

TITLE 172 NAC 5



Department of Health and Human Services
Division of Public Health
Licensure Unit

301 Centennial Mall South, Third Floor
P.O. Box 94986
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Effective Date: October 9, 2006

Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

Chapter 5 MANDATORY REPORTING BY HEALTH CARE PROFESSIONALS,
FACILITIES, PEER REVIEW ORGANIZATIONS, PROFESSIONAL
ASSOCIATIONS, AND INSURERS

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EFFECTIVE DATE
OCTOBER 9, 2006

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 5

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 5 MANDATORY REPORTING BY HEALTH CARE PROFESSIONALS, FACILITIES,
PEER REVIEW ORGANIZATIONS, PROFESSIONAL ASSOCIATIONS, AND
INSURERS

5-001 SCOPE AND AUTHORITY: These regulations govern the manner and method in which health care professionals, health care facilities, peer review organizations, professional associations and insurers must report actions or conduct which may violate laws or regulations governing health care professionals who are licensed, certified, or registered by the Department. The authority for these regulations is the Uniform Licensing Law. These regulations do not apply to pharmacist interns.

5-001.01 Voluntary Complaints: Nothing in law or under these regulations is intended to preclude a health care professional, a health care facility, a peer review organization, a professional association, or an insurer from voluntarily reporting information or filing a complaint against a health care professional.

5-001.02 Duty to Provide Information for Investigations: In addition to the requirements of these regulations every health care professional and every member of a professional board must furnish the Department, upon request, such evidence as s/he may have relative to any alleged violations that is being investigated, pursuant to Neb. Rev. Stat. § 71-168.

5-002 DEFINITIONS: Except as the context requires or as is specifically provided, the following definitions apply to these regulations:

Conviction means a finding of guilt for a crime committed. Such finding may be made on a:

1. Verdict of a jury;
2. Non-jury trial before a court or other tribunal; or
3. Upon acceptance of a plea of guilty or no contest without trial.

Department means the Department of Health and Human Services Regulation and Licensure.

Employment means services performed for another for wages or salary, or under agreement or contract in partnership or association with other health care professionals.

Firsthand Knowledge means information or knowledge gleaned directly from the original source through use of the senses, such as an eyewitness.

Gross Incompetence means a demonstrated lack of proficiency, skill or ability to perform the duties and functions of the health care profession to a very high degree.

Health Care Facility means an ambulatory surgical center, an assisted-living facility, a center or group home for the developmentally disabled, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, an intermediate care facility for the mentally retarded, a long-term care hospital, a mental health center, a nursing facility, a pharmacy, a psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, a skilled nursing facility, or a substance abuse treatment center.

Health Care Professional means an individual regulated by the Department under the Advanced Practice Registered Nurse Licensure Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or Neb. Rev. Stat. §§71-3702 to 3715, 71-4701 to 71-4719, or 71-6053 to 71-6068.

Licensee Assistance Program means the voluntary program for education, referral assistance, and monitoring of compliance with treatment of habitual intoxication or dependence. Neb. Rev. Stat. §71-172.01.

Pattern of Negligent Conduct means a continued course of failure to use the care, skill and knowledge ordinarily possessed and used under like circumstances by members of the same profession engaged in similar practices in the same or similar localities in performing the duties of the profession.

Payment means monetary compensation made by or on behalf of a health care professional due to acts or omissions of a health care professional in his/her personal or corporate capacity.

Peer Review Organization or Committee means a professional society or committee or agency thereof, including those at the national, state or local level, or a facility's peer review or utilization review committee or similar body, that engages in professional review activities through a formal peer review process to further quality of care, including notice and opportunity for hearing.

Practicing while Impaired:

1. With respect to alcohol, controlled substances or narcotic drugs means demonstrating drug or alcohol use, which diminishes or otherwise impacts the ability to practice safely or competently.
2. With respect to a physical disability means engaging in practice of some or all of the essential functions or duties of a health care profession while the ability to do so safely or competently is diminished or otherwise impacted because of physical limitations.
3. With respect to a mental or emotional disability means engaging in practice of some or all of the essential functions or duties of a health care profession while the ability to do so safely or competently is diminished or otherwise impacted due to a disorder of thought, mood, perception, orientation or memory.

Privileges means the authorization by a facility for a health care professional to provide health care services, including privileges and membership on the medical staff of the facility.

Professional Association, Society or Organization means any organization of individual health care professionals who are required to obtain a license or other legal authorization prior to performing a professional service.

Professional Liability Claim or Claim means a complaint or demand for payment based on a health care professional's provision of or failure to provide health care services, and includes complaints or demands made prior to suit and the filing of a cause of action based on the law of tort brought in any state or federal court or any adjudicative body or agency in the health care professional's personal or corporate capacity.

Uniform Licensing Law means those statutes cited in Neb. Rev. Stat. §71-101.

Unprofessional Conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including:

1. Acts or conduct identified in Uniform Licensing Law;
2. Acts or conduct identified in the practice act or other laws regulating a health care professional;
3. Such other acts as may be defined in rules and regulations adopted and promulgated by the boards of examiners for the health care profession; and
4. Additional conduct determined by adjudication in individual contested cases involving health care professionals.

5-003 REPORTING BY HEALTH CARE PROFESSIONALS: All health care professionals must report as required by these regulations.

5-003.01 Reporting Yourself: A report must be submitted within 30 days of the occurrence of any of the following:

1. You lost your privileges in a hospital or other health care facility due to alleged:
 - a. Incompetence;
 - b. Negligence;
 - c. Unethical or unprofessional conduct; or
 - d. Physical, mental, or chemical impairment.
2. You voluntarily limited your privileges or resigned from the staff of any health care facility while under formal or informal investigation or evaluation by the facility or a committee of the facility for issues of:
 - a. Clinical competence;
 - b. Unprofessional conduct; or
 - c. Physical, mental, or chemical impairment.
3. You lost your employment due to alleged:
 - a. Negligence;
 - b. Unethical or unprofessional conduct; or
 - c. Incompetence;
 - d. Physical, mental, or chemical impairment.

4. You have had a professional liability claim that resulted in an adverse judgement, settlement, or award, including settlements made prior to suit in which the patient releases any professional liability claim against the credentialed person.
 - a. Exception: A settlement as used in 172 NAC 5-003.01 item 4 will not include the following situations:
 - (1) When a health care professional waives either all or part of an outstanding debt to resolve a patient's or client's claim;
 - (2) When a health care professional refunds either all or part of a fee paid for services, products, or devices to resolve a patient's or client's claim; or
 - (3) When a health care professional returns either all or part of any reimbursement to a third party payers for services, products, or devices provided to a patient or client to resolve a claim.
 - b. Inclusion: A settlement as used in 172 NAC 5-003.01 item 4 includes the provision of either money, devices, products or services by a health care professional to a patient or client in an amount that exceeds the total fee charged to a patient or a client to resolve a claim, including settlements made prior to the suit if the patient or client releases any professional liability claim against you. The date of the settlement for the purpose of these regulations is the date of release from the claim.
5. Your professional liability insurance coverage has been cancelled, limited, or otherwise modified due to a professional liability claim.
6. You have been refused professional liability insurance coverage on an initial or renewal basis due to a professional liability claim.
7. You have been denied a credential or other form of authorization to practice by any state, territory, or jurisdiction, including any military or federal jurisdiction, due to alleged:
 - a. Incompetence;
 - b. Negligence;
 - c. Unethical or unprofessional conduct; or
 - d. Physical, mental, or chemical impairment.
8. You have disciplinary action taken against any credential or other form of permit by another state, territory, or jurisdiction, including any federal or military jurisdiction, the settlement of such action, or any voluntary surrender of or limitation on any such credential or other form of permit.
9. You have lost membership in a professional organization due to alleged:
 - a. Incompetence;
 - b. Negligence;
 - c. Unethical or unprofessional conduct; or
 - d. Physical, mental or chemical impairment.

10. You have been convicted of any misdemeanor or felony in Nebraska or any other state, territory, or jurisdiction, including any federal or military jurisdiction.

5-003.01A Information to Report

5-003.01A1 Loss or Voluntary Limitation of Privileges or Resignation from Staff:

Reports of this type of action must be made on a form provided by the Department, a copy of which is included and has been made a part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. The report must include the following information:

1. Your name and date of birth;
2. Your home and work addresses and telephone numbers;
3. Your license number;
4. A description of each act or omission or other reason for the loss or voluntary limitation of privileges or resignation from staff including:
 - a. The full name, date of birth, address, and number of the patient or client involved;
 - b. A description of what occurred;
 - c. When it occurred, including the date and time, if known;
 - d. Where it occurred; and
 - e. The name, address, and telephone number of the facility taking action or conducting investigation or evaluation, the nature of the action affecting privileges that was taken, date taken, and effective date of the action.

5-003.01A2 Loss of Employment: Reports of this type of action must be made on a form provided by the Department, a copy of which is included and has been made a part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. The report must include the following information:

1. Your name and date of birth;
2. Your home and work addresses and telephone numbers;
3. Your license number;
4. The name, address, and telephone number of the person or entity taking the action; and
5. A description of each action, omission or other cause that lead to the loss of employment, including :
 - a. The name, address, telephone number of the patient or client or other identifying information for each person affected by the act, omission;
 - b. The date of each act, omission; and
 - c. The location of each act or omission.

5-003.01A3 Professional Liability Report: Reports of this type of action must be made on a form provided by the Department, a copy of which has been included and made part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party.

1. The report must include the following information:
 - a. The name, address, and telephone number of the patient, client or other person to whom or for whose behalf payment was made;
 - b. The date the action or claim was filed with a court or other adjudicative body, identification of such court or body by name and address and the case number;
 - c. The name and address of the insurer, employer or other person or entity making payment of the claim;
 - d. The date(s) on which the act(s) or omission(s) which gave rise to the action or claim occurred;
 - e. The location where the act(s) or omissions(s) that gave rise to the action or claim occurred;
 - f. A description of the acts or omissions upon which the action or claim was based;
 - g. The date of judgment, settlement or award; and
 - h. The amount paid, date of payment, and whether payment was made for a judgment, settlement, or award.
 - i. The following information about the health care professional who is the subject of the report:
 - i. Name;
 - ii. Home and work addresses and telephone numbers;
 - iii. License number; and
 - iv. Date of birth.
2. The report must be submitted within 30 days of the occurrence of a payment resulting from:
 - a. An award; or
 - b. An adverse judgement.
3. To avoid duplicative reporting, a report of a malpractice payment to the Department from an insurance company no later than 30 days after the malpractice payment will satisfy the reporting of a malpractice payment by a health care professional.

5-003.01A4 Denial of or Disciplinary Action Against a Credential Report: Reports of this type of action must be made on a form provided by the Department, a copy of which has been included and made part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. This report must include the following information:

1. The name, address and telephone number of the board or other entity taking the action or involved in the settlement or surrender;
2. The license number(s) and professional field(s) affected by the action, settlement or surrender.
3. The date of the action was taken and the date the action became effective ; and
4. The nature of the action and a description of any terms and conditions.
5. The following information about the health care professional who is the subject of the report:
 - a. Name;

- b. Home and work addresses and telephone numbers;
- c. License Number; and
- d. Date of birth.

5-003.01A5 Loss of Professional Association Membership Report: Reports of this type of action must be made on a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. This report must include the following information:

1. The name, address, and telephone number of the professional association;
2. The date action was taken, the date the action become effective, and the duration of the action; and
3. A description of the facts surrounding the reason(s) given for the action, including:
 - a. The name, address, and telephone number of the patient or client, as applicable;
 - b. The event(s) giving rise to the action;
 - c. When each event occurred;
 - d. Where each event occurred; and
 - e. How each event occurred.
4. The following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.

5-003.01A6 Conviction Report: Reports of this type of action must be made on a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. This report must include the following information:

1. The date of conviction;
2. The name and address of the court or other adjudicative body entering the conviction;
3. The case number;
4. The crime for which convicted, including its name and classification;
5. The sentence imposed, including its duration and any terms and conditions imposed; and
6. Whether the conviction is under appeal and, if so, the name and address of the court, case number, and date appeal was filed.
7. The following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.

5-003.01A6a Exception to Reporting:

5-003.01A6a(i) Diversion: Any health care professional whose case disposition involves diversion is not required to report the diversion.

5-003.01A6b Optional Reporting:

5-003.01A6b(i) Pardon: Any health care professional who is pardoned for a conviction may report such pardon.

5-003.01A6b(ii) Set Aside: Any health care professional whose conviction is set aside may report such set aside.

5-003.01A6b(iii) Expunged: Any health care professional whose conviction records are expunged may report such expungement.

5-003.02 Reporting Persons Who Practice in the Same Profession as the Person Making the Report: Every health care professional must report when s/he has firsthand knowledge of facts giving him/her reason to believe that any person in the same profession as the person reporting has committed acts indicative of:

1. Gross incompetence;
2. A pattern of negligent conduct;
3. Unprofessional conduct;
4. Practice while that person's ability to practice may be impaired by alcohol, controlled substances, narcotic drugs, or physical, mental or emotional disability;
or
5. Other violations of laws or regulations governing the practice of the profession.

For purpose of this regulation "person in the same profession" means a person who is regulated by the same Practice Act.

5-003.03 Reporting Persons Who Practice in a Different Profession Than the Person Making the Report: Every health care professional report when s/he has firsthand knowledge of facts giving him/her reason to believe that any person in a profession different than the person reporting:

1. Has committed acts indicative of gross incompetence; or
2. May be practicing while his/her ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical, mental or emotional disability.

For purpose of this regulation "persons in a different profession," means a person who is regulated by a different Practice Act.

5-003.04 Information to Report When Reporting Persons in the Same or a Different Profession Than the Person Making the Report: Reports must be made on a form provided by the Department, a copy of which has been included and made part of these regulations as Attachment 2; or reports may be made on a form constructed by the reporting party. This report must include the following information:

1. The act(s), omission(s) or conduct being reported;
2. When each act(s), omission(s) or conduct being reported occurred;
3. The statute(s) or regulation(s) believed to have been violated, if known;
4. Where each act(s), omission(s) or conduct being reported occurred;
5. A narrative description of the act(s), omission(s) or conduct being reported and the surrounding facts;
6. The names, titles, addresses and telephone numbers of all persons present, if known; and
7. The nature of any injury, damage, illness, loss or other detriment which resulted from the act(s), omission(s) or conduct.
8. The following information about the reporting individual or entity:
 - a. Name, address, and telephone number of the person or entity making the report;
 - b. Name, title, and telephone number of the responsible official submitting the report on behalf of an entity;
 - c. Relationship of the reporting person or entity to the health care professional who is the subject of the report.
9. The following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.

5-003.04A Exceptions from Reporting

5-003.04A1 Treating Professionals: A health care professional who is providing treatment to another health care professional in a practitioner patient relationship is not required to report:

1. Information obtained or discovered in the course of treatment unless the treating professional determines that the condition of the person may be of such a nature which constitutes a danger to the public health and safety by the person's continued practice; or
2. Information based on confidential medical records protected by confidentiality provisions of the federal Public Health Services Act, 42 U.S.C. 290ee-3 and 290dd-3 and federal administrative rules and regulations, except as may be provided in such laws or regulations.

5-003.04A2 Licensee Assistance Program: Health care professionals are not required to report a person in the same or different profession of the person making the report for chemical impairment when the person being reported enters the Licensee Assistance Program as authorized by Neb. Rev. Stat. §71-172.01.

5-003.04A3 Spouses: A health care professional who is a spouse of another health care professional will not be required to report the spouse pursuant to 172 NAC 5-003.02 and 5-003.03.

5-003.05 Penalty for Failure to Report Yourself or Other Health Care Professionals: Health care professionals who fail to file reports required by 172 NAC 5-003.01, 5-003.02 and 5-003.03 are subject to discipline pursuant to Neb. Rev. Stat. §71-147 (20).

5-003.06 Immunity: Health care professionals except those self-reporting, that file reports under these regulations, as well as those who submit voluntary complaints, are immune from criminal or civil liability of any nature, whether direct or derivative, for filing reports or complaints with the Department or for disclosure of documents, records, or other information to the Department.

5-003.07 Confidentiality: The Department will treat reports made to it under these regulations against health care professionals as confidential, and the Department will process any and all such reports in the same manner as it processes complaints, and will maintain such information as part of the Department's investigative records as authorized by Neb. Rev. Stat. §71-168.01(7).

5-004 REPORTING BY HEALTH CARE FACILITIES, PEER REVIEW ORGANIZATIONS, AND PROFESSIONAL ASSOCIATIONS:

5-004.01 Health Care Facilities, Peer Review Organizations, and Professional Associations must Report to the Department any Facts Known to Them When :

1. A health care facility has:
 - a. Made payment due to adverse judgment, settlement, or award of a professional liability claim against the health care facility or a health care professional including settlements made prior to suit, arising out of the acts or omissions of the health care professional; or
 - b. Taken actions adversely affecting the privileges or membership of a health care professional due to alleged:
 1. Incompetence;
 2. Professional negligence;
 3. Unprofessional conduct; or
 4. Physical, mental or chemical impairment.
2. A peer review organization has taken action adversely affecting the privileges or membership of a health care professional that are indicative of alleged:
 - a. Professional negligence;
 - b. Incompetence;
 - c. Unprofessional conduct; or
 - d. Physical, mental or chemical impairment.
3. A professional association has taken action adversely affecting the membership of a health care professional in the association due to alleged:
 - a. Incompetence;
 - b. Professional negligence;
 - c. Unprofessional conduct; or
 - d. Physical, mental or chemical impairment.

5-004.02 Information to Report

5-004.02A Reporting Malpractice Payments or Adverse Action by a Health Care Facility:

1. The report must include the following information about the facility that makes the report:
 - a. Name, address, and telephone number of the person or entity making the report;
 - b. Name, title, and telephone number of the responsible official submitting the report on behalf of a facility;
 - c. Relationship of the reporting facility to the health care professional who is the subject of the report.
2. The report must include the following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.
3. The name and address for the patient, client or other person to whom or for whose behalf payment was made;
4. When the action or claim has been filed with a court or other adjudicative body, identification of such court or body by name and address, and the case number;
5. The date of judgment, settlement, or award;
6. Amount paid, date of payment, and whether payment was made for judgment, settlement, or award; and
7. Description of any terms and conditions attached to the payment.
8. The reason(s) and a description of the facts surrounding the reasons for the payment made including:
 - a. The act(s) or omission(s) or conduct giving rise to the payment or adverse action;
 - b. Date or dates on which the act(s) or omission(s) occurred;
 - c. Where the act(s) or omission(s) occurred;
 - d. How the act(s) or omission(s) occurred;
 - e. The name, title, address, and telephone number of all persons present at the time of each act or omission or with firsthand knowledge of the act or omission; and
 - f. The nature of any injury, illness, damage or other loss or detriment upon which the action or claim was based.

5-004.02B Reporting Peer Review or Professional Association Adverse Actions

1. The report must include the following information about the individual or entity that makes the report:
 - a. Name, address, and telephone number of the person or entity making the report;
 - b. Name, title, and telephone number of the responsible official submitting the report on behalf of an entity; and
 - c. Relationship of the reporting person or entity to the health care professional who is the subject of the report.
2. All reports made under these regulations must contain the following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.
3. Date action was taken and its effective date;
4. Duration of the effect of the action;
5. Type of action taken; and
6. Name and address for each patient, client or other person subject to the acts, omissions or other conduct giving rise to the action taken.
7. Reason(s) for the report and a description of the facts surrounding the reasons for the action taken including:
 - a. Act(s) or omission(s) or conduct giving rise to the payment or adverse action;
 - b. Date or dates on which the act(s) or omission(s) occurred;
 - c. Where the act(s) or omission(s) occurred;
 - d. How the act(s) or omission(s) occurred; and
 - e. Name, title, address, and telephone number of all persons present at the time of each act or omission or with firsthand knowledge of the act or omission.

5-004.03 Health Care Facility Peer Review Organizations or Professional Associations

5-004.03A Penalties for Failure to Report: By a Health Care Facility that fails to report as required by these regulations are subject to disciplinary action as authorized by Neb. Rev. Stat. §71- 448 (10).

5-004.03B Immunity: Health Care Facilities that file reports under these regulations, as well as those who submit voluntary complaints, are immune from criminal or civil liability of any nature, whether direct or derivative, for filing reports or complaints with the Department or for disclosure of documents, records or other information to the Department.

5-004.03C Confidentiality: The Department will treat reports made to it under these regulations against health care professionals as confidential; and the Department will process any and all such reports in the same manner as it processes complaints, and

will maintain such information as part of the Department's investigative records as authorized by Neb. Rev. Stat. §71-168 (7).

5-004.04 Data Bank Reports: For purposes of Nebraska reporting requirements the Department will accept reports made by facilities, peer review organizations and professional associations under national practitioner data bank requirements of the Health Care Quality Improvement Act of 1986, as amended.

5-004.04A Nebraska Supplemental Report: In addition to National Practitioners Data Bank reports, facilities, peer review organizations, and professional associations must report to the Department information required by 172 NAC 5-004.02A or 5-004.02B that is not included on the data bank reports by using a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 3; or reports may be made on a form constructed by the reporting party.

5-004.05 Other Reports: Facilities, peer review organizations, and professional associations reporting health care professionals not subject to the reporting requirements of the national practitioner data bank provisions of the Health Care Quality Improvement Act of 1986, as amended, must make reports to the Department using a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 4; or reports may be made on a form constructed by the reporting party.

5-004.06 Exceptions to Reporting

5-004.06A Members: Persons who are members of committees established under Neb. Rev. Stat. §25-12,123 (Peer Review Committee) and §71-2046 to §71-2048 (Medical Staff Committee or Utilization Review Committee) are not required to report such activities.

5-004.06B Witnesses: Witnesses who appear before committees established under Neb. Rev. Stat. §25-12,123 (Peer Review Committee) and §71-2046 to §71-2048 (Medical Staff Committee or Utilization Review Committee) are not required to report such activities. However, any person who is such a witness is not excused from reporting matters of firsthand knowledge that would otherwise be reportable under these regulations only because s/he attended or testified before such a committee.

5-005 REPORTING BY INSURERS: Insurers doing business in Nebraska must report to the Department no later than 30 days after the date of any of the following acts or event:

1. The insurer has made payment due to an adverse judgment, settlement, or award including settlement made prior to suit, resulting from a professional liability claim arising out of the acts or omissions of the practitioner.
2. The insurer has taken an adverse action that affects the coverage provided by the insurer to a health care professional due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment.
3. The insurer has reasonable grounds to believe that a practitioner has committed a violation of the regulatory provisions governing the profession of the practitioner; or

4. The Department has requested the insurer to provide information.

5-005.01 Information to Report

1. Insurers must report the information required by this section to the Department on a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 5; or reports may be made on a form constructed by the reporting party.
2. Any facts known to the insurer, including the identity of the practitioner and patient(s) (if any), about the:
 - a. Acts or omissions that resulted in the professional liability claim payment;
 - b. Acts or omissions that lead to adverse action affecting the practitioner's coverage;
 - c. Acts or omissions indicative of a violation of regulatory provisions governing the profession of the practitioner being reported; or
 - d. Information requested by the Department.
3. Insurers who report practitioners under the requirements of the National Practitioner Data Bank authorized by the Health Care Quality Improvement Act of 1986, as amended, must:
 - a. File a copy of the data bank report with the Department; and
 - b. Attach the Nebraska Supplemental Report, a copy of which is Attachment 3, and is incorporated in these regulations, or reports may be made on a form constructed by the reporting party, to the National Practitioner Data Report.

5-005.02 Exceptions to Reporting: An insurer is not required to report when:

1. The information is based on confidential medical records protected by the confidentiality provisions of the federal Public Health Services Act U.S.C. 290dd-2, and federal administration rules and regulations.
2. A practitioner's professional liability coverage rate is increased but any such increase is not based on grounds that would be reportable under these regulations.
3. The information is gained by the filing by or on behalf of a health care professional of a claim for payment under his/her health insurance policy.

5-005.03 Penalty for Failure to Report: Any insurer who fails or neglects to make a report to or provide information as requested by the Department within a reasonable time is guilty of a Class IV misdemeanor, unless such insurer has reported the required facts to a law enforcement agency.

5-005.04 Immunity from Liability for Insurer Reporting: Any insurer or employee of an insurer who makes a report as required by these regulations is immune from criminal penalty of any kind or from civil liability or other penalty for slander, libel, defamation, breach of the privilege between patient and physician or between client and professional counselor, or violation of the laws of the State of Nebraska relating to the business or insurance that may be incurred or imposed on account of or in connection with the making of such report.

EFFECTIVE DATE
OCTOBER 9, 2006

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 5

5-005.05 Confidentiality: The Department will treat reports from insurers that contain or relate to privileged communications between patient and practitioner as privileged communications and will maintain such information as part of the Department's investigative records. Such reports may not be obtained by legal discovery proceedings or otherwise disclosed unless the privilege is waived by the patient involved or the reports are made part of the record in a contested case under Neb. Rev. Stat. §71-154, in which case such reports will only be disclosed to the extent they are made part of such record.

Approved by the Attorney General on September 20, 2006

Approved by the Governor on October 4, 2006

Filed with the Secretary of State on October 4, 2006

Effective Date: October 9, 2006

Reporting Forms referred to as Attachments 1 through 5 may be obtained by contacting Health and Human Services Regulation and Licensure:

Investigations Division

P.O. Box 95164

Lincoln, NE 68509-5164

(402) 471-0175

Website: www.hhss.ne.gov/reg/invest-p.htm

To place a complaint, you may call: Investigations Division (402) 471-0175

ATTACHMENTS FOR TITLE 172, CHAPTER 5



**STATE OF NEBRASKA
 DEPARTMENT OF HEALTH AND HUMAN SERVICES
 REGULATION AND LICENSURE –DIVISION OF INVESTIGATIONS
 P.O. Box 95164, Lincoln, Nebraska 68509-5164
 402-471-0175**

HEALTH CARE PROFESSIONAL SELF-REPORTING ADVERSE ACTION

INDICATE THE TYPE OF SITUATION YOU ARE REPORTING:

- Loss or Voluntary Limitation of Privileges Resignation from Staff Loss of Employment
 Professional Liability Credential Denied or Disciplined Membership Lost Court Conviction

IDENTIFYING INFORMATION – COMPLETE ALL ITEMS

Name:	First:	Middle/MI	Last:	Maiden:
Work Address:	Street/PO/Route:			
	City:	State:	Zip:	
Home Address:	Street/PO/Route:			
	City:	State:	Zip:	
Telephone	Home:		Work:	
Optional	Cell Phone		E-Mail Address	

LIST THE FIELD AND NUMBER FOR EACH NEBRASKA LICENSE, CERTIFICATE OR REGISTRATION HELD

License Field	License Number

PATIENT OR CLIENT NAME ASSOCIATED WITH THIS REPORT

Name:	Address		
City	State	Zip	
Date of Birth			

FACILITY, BOARD, ASSOCIATION, JURISDICTION, EMPLOYER, OR HOSPITAL ASSOCIATED WITH THIS REPORT

Name:	Address		
City	State	Zip	

PROFESSIONAL LIABILITY REPORT

1. I had a professional liability claim that resulted in an adverse judgement, settlement or award, including settlements made prior to suit. OR
2. My professional liability insurance coverage has been cancelled, limited or otherwise modified due to a professional liability claim. OR
3. I have been refused professional liability insurance coverage on an initial or renewal basis due to professional liability claim.

Date(s) on which the act(s) or omission(s) which gave rise to the action or claim occurred:			
Date the action or claim was filed with a court or other adjudicative body:			
Date of <input type="checkbox"/> judgement <input type="checkbox"/> settlement or <input type="checkbox"/> award:		Day	Month
Date of Payment		Year	
Amount			
Case Number			
Name of court or adjudicative body	Name		
	Address		
	City	State	Zip
Insurer, employer, other person or entity making payment of the claim	Name		
	Address		
	City	State	Zip
	Contact Person:		Telephone No.
Patient, client or other person to whom or for whose behalf payment was made	Name		Telephone No.
	Address		
	City	State	Zip
Location where act(s) or omission(s) occurred	Name		
	Address		
	City	State	Zip
Description of the act(s) or omission(s) upon which the action was based.			

Use additional paper if necessary.

CREDENTIAL DENIED OR DISCIPLINED, MEMBERSHIP LOST OR COURT CONVICTION REPORT

1. I was denied a credential or other form of authorization to practice by a state, territory, or other jurisdiction, including any military or federal jurisdiction, due to alleged:
 - Incompetence
 - Negligence
 - Unethical or unprofessional conduct
 - Physical, mental or chemical impairment

2. I had disciplinary action taken against a credential or other form of permit by another state, territory, or jurisdiction, including any federal or military jurisdiction, or I had a settlement of such action, or I voluntarily surrendered or had a limitation placed on my credential or other form of permit.

3. I lost my membership in a professional organization due to alleged:
 - Incompetence
 - Negligence
 - Unethical or unprofessional conduct
 - Physical, mental or chemical impairment

Board, Association, Organization or Jurisdiction Taking Action	Name		Telephone No.
	Address		
	City	State	Zip
	Date Action Taken	Date Action Effective	Duration of Action
Nature of the action and description of any terms and conditions:			

4. I was convicted of a misdemeanor or felony in Nebraska or another state, territory or jurisdiction, including any federal or military jurisdiction. (Do not report speeding or parking tickets.)

Name of Court	City	State	Zip
Date of Conviction	Case Number	Under appeal ? <input type="checkbox"/>	
		To: _____ Court	
Name of crime for which convicted			
Sentence imposed, including duration and any terms and conditions:			



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P.O. Box 95164, Lincoln, Nebraska 68509-5164
402-471-0175**

HEALTH CARE PROFESSIONAL REPORTING ANOTHER HEALTH CARE PROFESSIONAL

IDENTIFYING INFORMATION FOR PERSON I AM REPORTING

Name:	First:	Middle/MI	Last:	Maiden:	Date of Birth:
Work Address:	Street:				
	City:	State:		Zip:	
Home Address	Street:				
	City:	State:		Zip:	
Telephone	Home:		Work		
Field of Licensure:			Nebraska License Number:		

A. I AM IN THE SAME PROFESSION AND IT IS NECESSARY FOR ME TO REPORT

- A pattern of negligent conduct
- Unprofessional conduct
- Other violations of laws or regulations governing the practice of the profession
- Gross incompetence
- Practicing while his/her ability to practice is impaired by:
 - Controlled substances
 - Alcohol
 - Narcotic drugs
 - Physical disability
 - Mental disability
 - Emotional disability

B. I AM IN A DIFFERENT PROFESSION AND IT IS NECESSARY FOR ME TO REPORT

- Gross incompetence
- Practicing while impaired (**Check boxes in A above under Practicing while impaired**)

IDENTIFYING INFORMATION FOR PERSON MAKING THE REPORT

Name:	First:	Middle/MI	Last:	Maiden:
Work Address:	Street:			
	City:		State:	Zip:
Home Address	Street:			
	City:		State:	Zip:
Telephone	Home:	Work:		Cell:
E-mail:				
Preferred Contact Number:				

INFORMATION TO REPORT

Act, omission or conduct being reported

Date of occurrence

Statute, or regulation believed to have been violated, if known

Where did it occur?

Description of conduct and facts surrounding it

Nature of any injury, damage, illness, detriment or loss that resulted from the conduct, act or omission

Names, addresses and telephone numbers of all persons present

Your relationship to the person you are reporting
--



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NEBRASKA SUPPLEMENTAL REPORT

Identifying Information for Person I am Reporting

Name:	First:	Middle/MI	Last:	Maiden:	Date of Birth
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Where did the Incident Occur?

Facility:
Address:

Patient or Client

Name:	Date of Birth:
Address:	

List all Persons Present at time of Incident that would have Firsthand Knowledge of the Incident.

Name	Title	Address

Reporting Party

Name:	
Title:	
Organization:	
Address:	
Telephone No.	FAX No.
E-mail Address:	
Relationship to Health Care Professional being Reported:	



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 402-471-0175

REPORTING BY HEALTH CARE FACILITIES, PEER REVIEW ORGANIZATIONS AND PROFESSIONAL ASSOCIATIONS

IDENTIFYING INFORMATION FOR PERSON I AM REPORTING

Name:	First:	Middle/MI	Last:	Maiden:	Date of Birth:
Work Address:	Street:				
	City:		State:		Zip:
Home Address	Street:				
	City:		State:		Zip:
Telephone	Home:		Work		

LIST THE FIELD AND NUMBER FOR EACH NEBRASKA LICENSE, CERTIFICATE OR REGISTRATION HELD

License Field	License Number

Reporting Party

Name:	
Title:	
Organization:	
Address:	
Telephone No.	FAX No.
E-mail Address:	
Relationship to Health Care Professional:	

We are a:

- Health Care Facility Peer Review Organization Professional Association

We have (Health Care Facility Only)

- Made a payment due to adverse judgement, settlement or award of a professional liability claim against the health care facility or health care professional.
- Taken actions adversely affecting the privileges, membership or employment of a health care professional due to alleged:
- Incompetence
 - Professional negligence
 - Unprofessional conduct
 - Physical, mental or chemical impairment

We have (Peer Review Organizations or Professional Associations Only)

- Taken an action adversely affecting the privileges or membership of a health care professional due to alleged:
- Incompetence
 - Professional negligence
 - Unprofessional conduct
 - Physical, mental or chemical impairment

REPORTING AN ADVERSE ACTION

Date action was taken:
Effective date:
Duration of the effect of the action:
Type of adverse action taken:
Patient or client giving rise to the action taken
Name:
Address:
Detailed description of act, omission or conduct surrounding the reason action taken
Date of the act, omission or conduct
Where did it occur?
List persons present at the end of the next page

MALPRACTICE PAYMENT

Name of patient or client:
Address:
Name of court:
Address:

Date of judgement, settlement or award:	
Date of payment:	
Amount of payment:	
Description of the facts surrounding the reason for the payment for the act or omission:	
Date of occurrence:	
Where did it occur?	
How did the act or omission occur?	
The nature of any injury, illness, damage or other loss upon which the claim was based:	
Persons present at time of act or omission or with first hand knowledge:	
Name	Title
Address	Telephone
Name	Title
Address	Telephone
Name	Title
Address	Telephone



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 402-471-0175**

REPORTING BY INSURERS

PROFESSIONAL I AM REPORTING

Name:	First:	Middle/MI	Last:	Maiden:	Date of Birth:
Work Address:	Street:				
	City:		State:		Zip:
Home Address	Street:				
	City:		State:		Zip:
Telephone	Home:		Work		

LIST THE FIELD AND NUMBER FOR EACH NEBRASKA LICENSE, CERTIFICATE OR REGISTRATION HELD

License Field	License Number

Reporting Party	
Name:	
Title:	
Organization:	
Address:	
Telephone No.	FAX No.
E-mail Address:	
Relationship to Health Care Professional:	

- 1. We have made a payment resulting from a professional liability claim.
- 2. We have taken an adverse action that affects the coverage provided by the insurer due to alleged:
 - Incompetence
 - Negligence
 - Unethical
 - Unprofessional conduct
 - Physical, mental or chemical impairment

Type of action taken

- Denial of coverage
- Refusal to renew coverage
- Coverage terminated or cancelled
- Coverage limited, reduced or modified
- Premium or rate increase
- Other

Date adverse action was taken: _____

- Person is subject to National Practitioner Data Bank requirements and Data Bank Supplement form completed.
- Person not subject to National Practitioner Data Bank and next page completed.

- 3. The insurer has reasonable grounds to believe that the practitioner has committed a violation of the regulatory provisions governing the profession or practitioner.
- 4. The Department has requested the insurer to provide information.

Patient or Client	
Name:	Date of Birth:
Address:	

Location of act, omission or conduct being reported
Name:
Address:

Date of Occurrence:

Describe in detail the acts, omissions or conduct being reported

MALPRACTICE PAYMENT

Name of patient or client:	
Address:	
Name of court:	
Address:	
Date of judgement, settlement or award:	
Date of payment:	
Amount of payment:	
Description of the facts surrounding the reason for the payment for the act or omission:	
Date of occurrence:	
Where did it occur?	
How did the act or omission occur?	
The nature of any injury, illness, damage or other loss upon which the claim was based:	
Persons present at time of act or omission or with first hand knowledge:	
Name	Title
Address	Telephone
Name	Title
Address	Telephone
Name	Title
Address	Telephone

Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

Chapter 11 LICENSURE OF OUT-OF-HOSPITAL EMERGENCY CARE PROVIDERS

11-001 SCOPE AND AUTHORITY: These regulations apply to the licensure of out-of-hospital emergency care providers as defined in Neb. Rev. Stat. §§ 38-1201 to 38-1237 and the Uniform Credentialing Act (UCA).

11-002 DEFINITIONS:

Act means Neb. Rev. Stat. §§ 38-1201 to 38-1237 known as the Emergency Medical Services Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Additional Skills Course means coursework that relates to the instruction of additional skills for emergency medical responders and emergency medical technicians that are listed in 172 NAC 11-009.01B and 11-009.02B, respectively.

Advanced Emergency Medical Technician means an individual who has a current license to practice as an advanced emergency medical technician.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Anghoff Method means a method of determining passing scores based on aggregate information obtained by having judges predict the probability that a hypothetical minimally competent candidate will correctly answer items in a test. Source: Anghoff, W.H. 1971 Scales, Norms, & Equivalent Scores in R.L. Thorndike (E.d.) *Educational Measurement*, Washington, D.C.: American Council on Education.

Assessment means the act of determining the type and degree of injury, illness or other medical disability.

Assessment Examination means examinations, developed by the National Registry of Emergency Medical Technicians, to determine the competency of out-of-hospital emergency care personnel.

Attest/Attestation means that the individual declares that all statements on the application are true and complete.

Board means the Board of Emergency Medical Services.

Care and Treatment Standards means the most current standards established by a nationally recognized organization that, through research, accepted practice, and/or patient experience, issues guidelines for the care and treatment of patients in the emergency and/or out of hospital environment.

Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with all required documentation.

Confidential Information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing Education means the attendance and participation in training, including distributive learning programs, which covers learning objectives of the subject matter of EMS Courses with an emergency medical service focus.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of Study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or a closely related substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Direct Supervision means the field supervisor is present with the patient visually monitoring, providing verbal direction, and overseeing patient care that is being provided by a temporary licensee or student. The field supervisor must visually monitor the practices and procedures of the temporary licensee or student.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Distributive Learning means an instructional model that allows instructor, students, and content to be located in different non-centralized locations so that instruction and content occur independent of time and place and may be offered in one or more of the following strategies: print, internet, videotape, CD-ROM/DVD, satellite and television.

Distributive Learning Program means a course, class, and or printed material, offered for credit toward out-of-hospital emergency care provider license renewal, presented in the strategies consistent with the Distributive Learning definition, covers the subject matter of the EMS courses and follows the current care and treatment standards. A Distributive Learning Program is provided by an approved Distributive Learning Organization pursuant to 172 NAC 13-019.

Emergency Medical Service (EMS) means the organization responding to a perceived individual need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury and is licensed as either a basic life support service or an advanced life support service.

Emergency Medical Technician means an individual who has a current license to practice as an emergency medical technician.

Emergency Medical Technician-Intermediate means an individual who has a current license to practice as an emergency medical technician-intermediate.

EMS Courses means any one or more of the following as defined in Neb. Rev. Stat. § 38-1218 taught by an approved training agency as defined in 172 NAC 13-002.

1. Emergency Medical Responder Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Responder. This course will not include the Emergency Medical Responder Additional Skills Course material.
2. Emergency Medical Responder Additional Skills Course means a course of instruction for licensed Emergency Medical Responders that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Educational Standards for the Emergency Medical Technician level that relates to the topics of:
 - a. Medication administration of aspirin and epinephrine by auto injector,
 - b. Application of spinal and extremity immobilization devices,
 - c. Patient transport devices, and
 - d. Patient transport.

These topics may be instructed independently, grouped into two or three topics, or consolidated into one course. This course may only be taught to individuals licensed as emergency medical responders.

3. Emergency Medical Technician Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Technician and will include documentation of five patient contacts that must be completed during at least ten hours of field experience. If the student cannot meet the five patient contacts during the field experience because of a low number of emergency/medical requests, these contacts may be obtained in a hospital emergency department, clinic, or physicians' office. This course will not include the Emergency Medical Technician Additional Skills Course.
4. Emergency Medical Technician Additional Skills Course means a course of instruction for licensed Emergency Medical Technician that meets the United States Department of Transportation, National Emergency Medical Services Educational Standards for the Advanced Emergency Medical Technician level as they relate to the topics of:
 - a. Non-visualized advanced airway management,
 - b. Impedance threshold device,
 - c. Intravenous fluid monitoring only,
 - d. Peripheral intravenous access and monitoring intravenous fluids,
 - e. Medication administration of albuterol by nebulizer and epinephrine by auto injector; and/or
 - f. Assessment utilizing a glucometer.

These topics may be instructed independently, grouped into two, three, or four topics, or consolidated into one course. This course may only be taught to individuals licensed as emergency medical technicians.

5. Pre-Hospital Emergency Care for Nurses Course means a course of instruction to train Licensed Registered Nurses and Licensed Practical Nurses to become emergency medical technicians that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Technician specific to the educational material and psychomotor skills not taught in nurses training.
6. Advanced Emergency Medical Technician Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Advanced Emergency Medical Technician included in this course is a foundational depth and foundational breadth of morphine sulfate and the antagonist agent used in overdose and the clinical behaviors/judgment to safely and effectively administer morphine sulfate. This course will include documentation of at least 25 patient contacts, at least 24 intravenous starts, and placement of at least 12 non-visualized airways that must be completed during a minimum of 150 hours of field experience. These requirements may also be completed in a hospital emergency department, clinic, or physician's office. If the student cannot meet the required patient contacts during the field/clinical experience because of a low number of emergency/medical requests, these patient contacts may be obtained in a classroom setting using manikins.
7. Paramedic Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Paramedic included in this course is a complex depth and comprehensive breadth of;
 - a. Pharmacologic agents use to assist or to facilitate advanced airway management; and
 - b. Airway anatomy as it relates to surgical cricothyrotomy and the clinical behaviors/judgment to safely and effectively perform the psychomotor skills of pharmacologically assisted endotracheal intubation, rapid sequence endotracheal intubation, and surgical cricothyrotomy.
8. Emergency Medical Responder Refresher Course means a course of instruction that meets the United States Department of Transportation National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Responder and covers the following content areas:
 - a. Preparatory – at least 1 hour
 - b. Airway – at least 2 hours
 - c. Patient Assessment – at least 2 hours
 - d. Circulation – at least 3 hours
 - e. Illness and Injury – at least 3 hours
 - f. Childbirth and Children – at least 1 hours

At the end of each course will be an examination that includes:

- a. Fifty written questions that will cover all content areas; and
 - b. A practical skills examination covering the emergency medical responder licensing examination skills.
9. Emergency Medical Technician Refresher Course means a course of instruction that meets the United States Department of Transportation National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Technician and covers the following content areas:
- a. Preparatory – at least 1 hour
 - b. Airway – at least 2 hours
 - c. Obstetrics, Infants, Children – at least 2 hours
 - d. Patient Assessment – at least 3 hours
 - e. Medical Behavior – at least 4 hours
 - f. Trauma – at least 4 hours
 - g. Electives – at least 8 hours.

At the end of each course will be an examination that includes:

- a. One hundred written questions that will cover all content areas; and
 - b. A practical skills examination covering the emergency medical technician licensing examination skills.
10. Advanced Emergency Medical Technician Refresher Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Advanced Emergency Medical Technician and covers the following content areas:
- a. Airway, Breathing, and Cardiology – at least 12 hours
 - b. Medical Emergencies – at least 6 hours
 - c. Trauma – at least 8 hours
 - d. Obstetrics and Pediatrics – at least 12 hours
 - e. Operational Tasks – at least 1 hour

At the end of each course will be an examination that includes:

- a. One hundred written questions that will cover all content areas; and
 - b. A practical skills examination covering the advanced emergency medical technician licensing examination skills.
11. Paramedic Refresher Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Paramedic and cover the following content areas:
- a. Airway, Breathing, and Cardiology – at least 16 hours
 - b. Medical Emergencies – at least 8 hours
 - c. Trauma – at least 6 hours
 - d. Obstetrics and Pediatrics – at least 16 hours
 - e. Operational Tasks – at least 2 hours

At the end of each course will be an examination that includes:

- a. One hundred written questions that will cover all content areas; and

- b. A practical skills examination covering the paramedic licensing examination skills.
12. Emergency Medical Responder to Emergency Medical Technician Bridge Course means a course of instruction to train licensed Emergency Medical Responders to become Emergency Medical Technicians that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Technician specific to the educational material and psychomotor skills not taught in the Emergency Medical Responder Course.
 13. Emergency Medical Technician to Advanced Emergency Medical Technician Bridge Course means a course of instruction to train licensed Emergency Medical Technicians to become Advanced Emergency Medical Technicians that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Advanced Emergency Medical Technician specific to the educational material and psychomotor skills not taught in the Emergency Medical Technician Course.
 14. Advanced Emergency Medical Technician to Paramedic Bridge Course means a course of instruction to train licensed Advanced Emergency Medical Technicians to become Paramedics that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Paramedic specific to the educational material and psychomotor skills not taught in the Advanced Emergency Medical Technician Course.
 15. Nebraska Emergency Medical Service Instructor Course means a course of instruction developed by the department to train licensed out of hospital emergency care providers to become licensed Emergency Medical Services Instructors based on the United States Department of Transportation National Highway Traffic Safety Administration, National Emergency Medical Services Instructor Guidelines.

EMS Operations Course means a course that provides out-of-hospital emergency care providers knowledge of operational roles and responsibilities to ensure patient, public and personnel safety.

Emergency Medical Responder means an individual who has a current license to practice as an emergency medical responder.

Field Experience means a period of direct supervised experience when a student is mentored by a field supervisor while operating with an emergency medical service that responds to an emergency/medical request and proceeds from observation to providing care commensurate with the student's training.

Field Supervision means a period of direct supervision or indirect supervision of a temporary licensee by a field supervisor.

Field Supervisor means an individual who is a licensed out-of-hospital emergency care provider, with an unencumbered license and is the same or higher level of out-of-hospital emergency care provider as the temporary licensee or same or higher level as the student's course of study.

Higher level of out-of-hospital emergency care provider means an individual who is licensed as an out-of-hospital emergency care provider and who may provide additional care commensurate with his/her level of training.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

Indirect Supervision means the field supervisor is present at the scene and during transport. The field supervisor is located in proximity of the patient and must approve all practice and procedures being performed by the temporary licensee. The field supervisor does not need to witness the procedures as they are performed.

License means an authorization issued by the Department to an individual to engage in a profession to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensure Examination means the cognitive and practical skills competency examination developed by the National Registry of Emergency Medical Technicians for emergency medical technicians, emergency medical responders, advanced emergency medical responders, emergency medical technician-intermediates, and paramedics.

Life Span Development means physiological, psychological, and biological changes that occur as an individual ages from birth to death.

Mandatory Reporting Law means Neb. Rev. Stat. § 38-1,124.

Military Service means full-time duty in the active military service of the United States, or a National Guard call to active service for more than 30 consecutive days or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a service member is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 11.

National Registry of Emergency Medical Technicians (NREMT) means an organization that develops minimum competency licensure examinations for EMS courses to be used as a requirement for licensure of Emergency Medical Responders, Emergency Medical Technicians, Advanced Emergency Medical Technicians and Paramedics.

Non-visualized Advanced Airway Management means the insertion without visualization of airway anatomical structures and the removal of airway adjuncts not intended for placement into the trachea as the sole means to provide for a patent airway.

Out-of-Hospital means locations where emergency medical services are requested to respond to actual or perceived individual needs for immediate medical care.

Out-of-Hospital Emergency Care Provider means all licensure classifications of emergency care providers established pursuant to the act.

Paramedic means an individual who has a current license to practice as a paramedic.

Patient means an individual who either identifies himself/herself as being in need of medical attention or upon assessment by an out-of-hospital emergency care provider has an injury or illness requiring treatment.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Physician Medical Director means a qualified physician who is responsible for the medical supervision of out-of-hospital emergency care providers and verification of skill proficiency of out-of-hospital emergency care providers pursuant to Neb. Rev. Stat. § 38-1217.

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

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Protocol means a set of written policies, procedures, and directions from a physician medical director to an out-of-hospital emergency care provider concerning the medical procedures to be performed in specific situations.

Qualified Physician means an individual who is licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to the Uniform Credentialing Act and meets any other requirements established by rule and regulation.

Qualified Physician Surrogate means a qualified, trained medical person designated by a qualified physician in writing to act as an agent for the physician in directing the actions or renewal of licensure of out-of-hospital emergency care providers.

Served in the regular armed forces has the same meaning as "military service" in these regulations.

Supraglottic Airway means an airway adjunct with a single lumen which at the distal end has a balloon device designed to seal the esophagus and near the mid-point has a second balloon device designed to seal the oropharynx. This airway adjunct may have a second lumen which is designed to allow passage of a gastric tube.

Temporary License means a license to practice as an out-of-hospital emergency care provider under supervision prior to receiving an initial credential after successful completion of an EMS course except for passing the licensure examination.

11-003 INITIAL CREDENTIAL: Any person who wishes to represent himself/herself as an out-of-hospital emergency care provider must be licensed as such. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

11-003.01 Qualifications: To receive a credential to practice as an out-of-hospital emergency care provider an individual must meet the following qualifications.

1. Age and Good Character: Be at least 18 years of age and of good character.
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education:
 - a. Emergency Medical Responder: Have successfully completed, within the two years preceding the application, the Emergency Medical Responder course, emergency medical technician course, advanced emergency medical technician course, or paramedic course as defined in 172 NAC 11-002.
 - b. Emergency Medical Technician: Have successfully completed, within the two years preceding the application, the emergency medical technician course, pre-hospital emergency care course for nurses, Emergency Medical Responder to emergency medical technician-bridge course, advanced emergency medical technician course or paramedic course as defined in 172 NAC 11-002.
 - c. Advanced Emergency Medical Technician: Have successfully completed, within the two years preceding the application, the advanced emergency medical technician course or paramedic course as defined in 172 NAC 11-002.
 - d. Paramedic: Have successfully completed, within the two years preceding the application, the Paramedic course as defined in 172 NAC 11-002.
4. Examination: Successfully pass the licensure examination with a passing score as determined by using the Anghoff Method for the level the individual is applying.
5. In place of meeting 172 NAC 11-003.01, items 3 and 4, hold a current certificate for the level the individual is applying from the National Registry of Emergency Medical Technicians.
6. If an applicant holds an out-of-hospital emergency care provider license from another jurisdiction, the applicant must meet the qualifications listed in 172 NAC 11-003.01, items 1 through 5.

11-003.02 Application: To apply for a credential to practice as an out-of-hospital emergency medical care provider, an individual must submit a complete application to the Department. A

complete application includes all required documentation and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A"#); or
 - (c) Form 1-94 (Arrival-Departure Record) number.

Certain applicants may have both a SSN and an A# or 1-94 number, and if so, must report both.

- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);

b. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced as an out-of-hospital emergency medical care provider in Nebraska at the level for which s/he is applying before submitting the application; or
- (2) If s/he has practiced as an out-of-hospital emergency medical care provider in Nebraska at the level for which s/he is applying before submitting the application, the actual number of days practiced in Nebraska; and before submitting the application for a credential, the name and location of practice;

c. Attestation: The applicant must attest that:

- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete; and
- (3) S/he is of good character;
- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 11-010 or if an act(s) was committed, provide an explanation of all such acts;
- (5) S/he is;
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i.) A citizen of the United States; or
 - (ii.) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii.) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why); and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
 - c. Evidence that the applicant is:
 - (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
 - d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);

- (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of Education, including:
- (1) Name and date of the EMS Course that was completed; and
 - (2) Name of approved training agency that awarded certificate; and
 - (3) Submission of official certificate showing completion of EMS course; or
 - (4) Copy of current National Registry Certificate at the level for which the individual applied.
- f. Documentation of Examination, including:
- (1) Name and level of the examination completed; and
 - (2) Date of examination; and
 - (3) Location of examination; and.
 - (4) Submission of official documentation showing successful completion of the examination.
- g. Documentation of Board approved Cardiopulmonary Resuscitation Certification as specified in 172 NAC 13-017 the applicant must submit to the Department a copy of current certificate.
- h. Documentation of holding a credential as an out of hospital emergency care provider in another jurisdiction(s)
- (1) Certification from the other jurisdiction(s) verifying licensure including:
 - (a) Name of Licensee;
 - (b) License number;
 - (c) Level of out-of-hospital emergency care provider;
 - (d) Issuance and expiration date of license;
 - (e) Date of Birth;
 - (f) Social Security number;
 - (g) Name of training program completed;
 - (h) Name of examination passed and score received;

- (i) Disciplinary action taken against the license;
- (j) Signature of licensing official.
- (2) The applicant must:
 - (a) Answer the following questions: Have you practiced as an out-of-hospital emergency care provider within the three years preceding application: and
 - (b) Provide the name of your service, address and dates where you were actively engaged in practice as an out-of-hospital emergency care provider.

11-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

11-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 11-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

11-003.05 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 11-013 or such other action as provided in the statutes and regulations governing the credential.

11-003.06 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

11-003.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

11-003.08 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

11-004 CREDENTIAL FOR TEMPORARY LICENSURE: Any person who wishes to practice as an out-of-hospital emergency care provider prior to receiving an initial credential after successful completion of an EMS course but has not passed the licensure examination must obtain a temporary license. The criteria for issuance of a temporary license and the documentation required by the Department and the Board are set forth below.

11-004.01 Qualifications: To receive a temporary license as an out-of-hospital emergency care provider, an individual must:

1. Meet all requirements for licensure pursuant to 172 NAC 11-003.01 except passing the licensure examination; and
2. Be supervised by the same or higher level of out-of-hospital emergency care provider.

Previous experience or a waiting period is not required to obtain a temporary license.

11-004.02 Standards for Supervision: The supervisor must supervise the temporary licensee performing practices and procedures outlined in 172 NAC 11-009 for the level of the temporary license.

11-004.02A The temporary licensee prior to performing the practice and procedures defined in 172 NAC 11-009:

1. Must have a field supervisor as defined in 172 NAC 11-002; and
2. The field supervisor must supervise the temporary licensee as follows:
 - a. For a temporary licensed Emergency Medical Responder:
 - (1) Direct supervision will be provided for the first 10 patient contacts; and
 - (2) May be indirect supervision after the 10 patient contacts.
 - (3) If the temporary licensed Emergency Medical Responder has failed an attempt at the licensure examination all supervision must be direct supervision.
 - b. For a temporary licensed Emergency Medical Technician:
 - (1) Direct supervision will be provided for the first 20 patient contacts; and
 - (2) May be indirect supervision after the 20 patient contacts.
 - (3) If the temporary licensed Emergency Medical Technician has failed an attempt at the licensure examination all supervision must be direct supervision.
 - c. For a temporary licensed Advanced Emergency Medical Technician:
 - (1) Direct supervision will be provided for the first 40 patient contacts; and
 - (2) May be indirect supervision after the 40 patient contacts.
 - (3) If the temporary licensed Advanced Emergency Medical Technician has failed an attempt at the licensure examination all supervision must be direct supervision.
 - d. For a temporary licensed Paramedic:
 - (1) Direct supervision will be provided for the first 70 patient contacts; and
 - (2) May be indirect supervision after the 70 patient contacts.
 - (3) If the temporary licensed Paramedic has failed an attempt at the licensure examination all supervision must be direct supervision.

11-004.02B The field supervisor of a person who holds a temporary license must immediately notify the Department when the supervision of the temporary licensee is terminated.

11-004.02C Expiration of a Temporary License: All temporary licenses will become null and void upon the Department's notification that the temporary licensee has passed the examination or a year from the issuance date, whichever comes first.

11-004.02D If a person who holds a temporary license has not successfully passed the licensing examination within 12 months of the date of issuance of the temporary license, the temporary licensee must reenroll and successfully complete an out-of-hospital emergency care provider course and pass the licensure examination.

11-004.02E Valid Period and Renewal: The temporary license will only be valid for a period of one year and may not be renewed. The temporary license will become null and void upon issuance of an initial license.

11-004.03 Application: To apply for a credential to practice as a temporary out-of-hospital emergency medical care provider, an individual must submit a complete application to the Department. A complete application includes all required documentation and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A"#); or
 - (c) Form 1-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or 1-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);

b. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced as an out-of-hospital emergency medical care provider in Nebraska at the level for which s/he is applying before submitting the application; or
- (2) If s/he has practiced as an out-of-hospital emergency medical care provider in Nebraska at the level for which s/he is applying before submitting the application, the actual number of days practiced in Nebraska; and before submitting the application for a credential, the name and location of practice;

c. Attestation: The applicant must attest that:

- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete; and
- (3) S/he is of good character;
- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 11-010 or if an act(s) was committed, provide an explanation of all such acts;

- and
- (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i.) A citizen of the United States;
 - (ii.) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii.) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why); and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;

- c. Evidence that the applicant is:
 - (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

- d. Evidence of citizenship, lawful presence and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);

- e. Documentation of Education, including:
 - (1) Name and date of the EMS Course that was completed; and
 - (2) Name of approved training agency that awarded certificate; and
 - (3) Submission of official certificate showing completion of EMS course; or

- f. Documentation of Board approved Cardiopulmonary Resuscitation Certification as specified in 172 NAC 13-017.
 - (1) Applicant must submit to the Department a copy of current certificate.

11-004.04 Department Review: The Department will act within 150 days upon all completed applications for initial licensing.

11-004.05 Denial of a Temporary License: If an applicant for a temporary license does not meet all of the requirements for the license, the department will deny issuance of a license. If the applicant is found to have committed any act which would be grounds for denial of a license as listed in 172 NAC 11-010, the Department may deny issuance of a license. To deny a license, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant,

within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

11-004.06 Practice Prior to License: An individual who practices prior to issuance of a temporary license is subject to assessment of an administrative penalty under 172 NAC 11-013 or such other action as provided in the statutes and regulations governing the license.

11-004.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

11-004.08 Address Information: Each license holder must notify the Department of any change to the address of record.

11-004.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

11-005 NULL AND VOID CERTIFICATIONS AND TRANSITION TO TITLE CHANGES:

1. Effective March 7, 1999, the following certification levels became null and void:
 - a. EMT-A/D, EMT-A/M, EMT-IV, and EMT-D: Individuals, who had been certified at any one or more of these certification levels, prior to March 7, 1999, may continue to perform these skills with approval of their emergency medical service's physician medical director and by maintaining a current certificate as an emergency medical technician;
 - b. Field Supervisor: Individuals who had been certified as field supervisors, prior to March 7, 1999, may continue to perform as field supervisors with the approval of the medical director.
2. Effective September 1, 2010 the following licensure levels will no longer be issued:
 - a. First Responder: Individuals who had been licensed at this level may continue to perform within the practice and procedures for Emergency Medical Responders defined in 172 NAC 11-009.01A until the individual's First Responder license has expired.
 - b. Emergency Medical Technician-Intermediate: Individuals who had been licensed at this level may continue to perform within the practice and procedures for Emergency Medical Technician-Intermediate defined in 172 NAC 11-009.04 until the individual's Emergency Medical Technician-Intermediate license has expired.
 - c. Emergency Medical Technician-Paramedic: Individuals who had been licensed at this level may continue to perform defined in 172 NAC 11-009.05 until the individual's Emergency Medical Technician-Paramedic license has expired.

3. After the effective date of these regulations, an individual who possessed a valid license as First Responder, Emergency Medical Technician-Intermediate, Emergency Medical Technician-Paramedic prior to September 1, 2010 will transition as follows:
 - a. First Responder: An individual who meets the renewal requirements for Emergency Medical Responder defined in 172 NAC 11-007.01 will be issued a license as an Emergency Medical Responder.
 - b. Emergency Medical Technician-Intermediate: An individual who meets the renewal requirements for Emergency Medical Technician-Intermediate defined in 172 NAC 11-007.01 will be issued a license as an Emergency Medical Technician-Intermediate.
 - c. Emergency Medical Technician-Paramedic: An individual who meets the renewal requirements for Paramedic defined in 172 NAC 11-007.01 will be issued a license as a Paramedic.

11-006 EXAMINATION ELIGIBILITY AND PROCEDURES

11-006.01 Emergency Medical Responder: An emergency medical responder licensure examination consists of a written examination and a practical examination. Individuals requesting to take an Emergency Medical Responder licensure examination must successfully complete, within two years prior to requesting to take the licensure examination, an Emergency Medical Responder course from an approved emergency medical services training agency.

11-006.02 Emergency Medical Technician: An emergency medical technician licensure examination consists of a written examination and a practical examination. Individuals requesting to take an emergency medical technician licensure examination must successfully complete, within two years prior to requesting to take the licensure examination, an emergency medical technician course from an approved emergency medical services training agency.

11-006.03 The emergency medical responder or emergency medical technician's eligibility to take the licensure examination will be authorized by the approved emergency medical services training agency that provided the training to the individual.

11-006.04 Advanced Emergency Medical Technician: An advanced emergency medical technician licensure examination consists of a written examination and a practical examination. Individuals requesting to take an advanced emergency medical technician licensure examination must:

1. Be currently licensed as an emergency medical technician; OR
2. Have a current certification from the National Registry of Emergency Medical Technicians; AND
3. Successfully complete, within two years prior to requesting to take the licensure examination, an advanced emergency medical technician course from an approved emergency services training agency.
4. Applicants requesting to take the advanced emergency medical technician practical portion of the licensure examination must apply to the Department. The Department will maintain a schedule of the dates and locations of the practical examinations in the state.

11-006.05 Paramedic: A paramedic licensure examination consists of a written examination and a practical examination. Individuals requesting to take the paramedic licensure examination must:

1. Be currently licensed as an emergency medical technician; OR
2. Have a current certification from the National Registry of Emergency Medical Technicians; AND
3. Successfully complete, within two years prior to requesting to take the licensure examination, a Paramedic course from an approved emergency services training agency;
4. Applicants requesting to take the Paramedic practical portion of the licensure examination must apply to the Department. The Department will maintain a schedule of the dates and locations of the practical examinations in the state.

11-007 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless such requirements are waived in accordance with 172 NAC 11-008.03 and 11-008.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

11-007.01 Requirements: On or before the credential expiration date, each licensed out-of-hospital emergency care provider must complete continued competency requirements for their level of licensure as follows:

1. Emergency Medical Responder
 - a. Hold a current CPR certification from an organization that has been approved by the Board; AND
 - b. Attest to completing 14 hours of continuing education with no more than seven hours of distributive learning programs, obtained within 24 months prior to license expiration date, in the subject matter of the Emergency Medical Responder course or request a waiver of continuing competency requirements; OR
 - c. Have a verification from a physician medical director or qualified physician surrogate that the applicant is qualified for renewal as defined in 172 NAC 12-004.08 item 10.a; OR
 - d. Hold a current Emergency Medical Responder certificate from the NREMT; OR
 - e. Have passed a written assessment examination.
 - (1) Licensees must achieve a passing score on the written assessment examination as determined by using the Anghoff Method.
 - (2) Licensees that fail the assessment examination on the first attempt will be required to renew by one of the methods specified in 172 NAC 11-007.01 item 1. a - d.
2. Emergency Medical Technician
 - a. Hold a current CPR certification from an organization that has been approved by the Board; AND
 - b. Attest to completing 20 hours of continuing education with no more than 10 hours of distributive learning programs, within the 24 months prior to the license expiration

date, in the subject matter of the emergency medical technician course or request a waiver of continuing competency requirements; OR

- c. Have a verification from his/her basic life support service's physician medical director or qualified physician surrogate that the applicant is qualified for renewal as defined in 172 NAC 12-004.08 item 10.b; OR
 - d. Hold a current emergency medical technician certificate from the NREMT; OR
 - e. Passed a written assessment examination.
 - (1) Licensees must achieve a passing score on the written assessment examination as determined by using the Anghoff Method.
 - (2) Licensees that fail the written assessment examination on the first attempt will be required to renew by one of the methods specified in 172 NAC 11-007.01 item 2, a – d.
3. Advanced Emergency Medical Technician
- a. Hold a current CPR certification from an organization that has been approved by the Board; AND
 - b. Attest to 26 hours of continuing education with no more than ten hours of distributive education learning programs, within the certification period. Eighteen hours must be in the subject matter of the Emergency Medical Technician Course and eight hours in the subject matter of the Advanced Emergency Medical Technician Course.
 - c. Have documentation from the physician medical director or qualified physician surrogate of demonstrated proficiency in peripheral IV access, non-visualize advanced airway management and administration of approved medications in a clinical, out-of hospital, or educational setting; OR
 - d. Hold verification from the applicant's advanced life support service's physician medical director or qualified physician surrogate that the applicant is qualified for renewal as defined in 172 NAC 12-004.08 item 10.c; OR
 - e. Hold a current Advanced Emergency Medical Technician certificate from the National Registry of EMT; OR
 - f. Pass the written assessment examination.
 - (1) Licensees must achieve a passing score on the written examination as determined by using the Anghoff Method.
 - (2) Licensees that fail any part of the examination on the first attempt will be required to renew by one of the methods specified in 172 NAC 11-007.01 item 3, a - e.
4. Emergency Medical Technician-Intermediate
- a. Hold a current CPR certification from an organization that has been approved by the Board; AND
 - b. Attest to completing 30 hours of continuing education with no more than 15 hours of distributive learning programs, obtained within the 24 months prior to the license expiration date, 20 hours in the subject matter of the emergency medical technician course and 10 hours in the subject matter covering the emergency medical technician-intermediate practice and procedures or request a waiver of continuing competency requirements; AND
 - c. Have documentation from a physician or qualified physician surrogate of demonstrated proficiency in peripheral IV administration and endotracheal intubation in a clinical, out-of-hospital, or educational setting; OR

- d. Have a verification from the applicants advanced life support service's physician medical director or qualified physician surrogate that the applicant is qualified for renewal as defined in 172 NAC 12-004.08 item 10.c; OR
 - e. A current emergency medical technician-intermediate certificate from the NREMT; OR
 - f. Pass a written and practical skills assessment examination.
 - (1) Licensees must achieve a passing score on the written examination as determined by using the Anghoff Method.
 - (2) Licensees that fail any part of the examination on the first attempt will be required to renew by one of the methods specified in 172 NAC 11-007.01 tem 4, a - e.
5. Paramedic:
- a. Hold a current CPR certification from an organization that has been approved by the Board; AND
 - b. Attest to completing 40 hours of continuing education with no more than 20 hours of distributive learning programs, obtained within the 24 months prior to the license expiration date, of which 20 hours must be in the subject matter of the emergency medical technician course and 20 hours must be in the subject matter of the Paramedic course or request a waiver of continuing competency requirements; AND
 - c. Documentation by a physician or qualified physician surrogate of demonstrated proficiency in peripheral IV administration, drug administration, cardiac skills and endotracheal intubation in a clinical, out-of-hospital, or educational setting. OR
 - d. Have a verification by the applicants advanced emergency medical service's physician medical director or qualified physician surrogate that the applicant is qualified for renewal as defined in 172 NAC 12-004.08 item 10.d; OR
 - e. Hold a current Paramedic certificate from the NREMT; OR
 - f. Passed a written and practical skills assessment examination.
 - (1) Licensees must achieve a passing score on the written examination as determined by using the Anghoff Method.
 - (3) Licensees that fail any part of the examination on the first attempt will be required to renew by one of the methods specified in 172 NAC 11-007.01 tem 5, a - e.
6. Paramedics who do not meet the continuing competency requirements as outlined in 172 NAC 11-007.01, item 5, for their level of licensure may be licensed as an Advanced Emergency Medical Technician if they meet the continuing competency requirements criteria of 172 NAC 11-007.01, item 3, they may be licensed as an Emergency Medical Technician if they meet the continuing competency requirements of NAC 11-007.01, item 2, or they may be licensed as an Emergency Medical Responder if they meet the continuing competency requirements of 172 NAC 11-007.01, item 1.
7. Emergency Medical Technician-Intermediates who do not meet the continuing competency requirements as outlined in 172 NAC 11-007.01, item 4, for their level of licensure may be licensed as an Advanced Emergency Medical Technician if they meet the continuing competency requirements of 172 NAC 11-007.01, item 3, or they may be licensed as an Emergency Medical Technician if they meet the continuing competency requirements of 172 NAC 11-007.01, item 2, or they may be licensed as an Emergency Medical Responder if they meet the continuing competency requirements of 172 NAC 11-007.01, item 1.

8. Advanced Emergency Medical Technicians who do not meet the continuing competency requirements as outlined in 172 NAC 11-007.01, item 3, for their level of licensure may be licensed as an Emergency Medical Technician if they meet the continuing competency requirements of 172 NAC 11-007.01, item 2, or they may be licensed as an Emergency Medical Responder if they meet the continuing competency requirements of 172 NAC 11-007.01, item 1.
9. Emergency Medical Technicians who do not meet the continuing competency requirements as outlined in 172 NAC 11-007.01, item 2, for their level of licensure may be licensed as an Emergency Medical Responder if they meet the continuing competency requirements of 172 NAC 11-007.01, item 1.
10. Out-of-Hospital Emergency Care Providers who want to upgrade their current license to any level up to a license that they previously held must meet the requirements for continuing competency for the level of license they want to obtain as stated in 172 NAC 11-007.01.
11. Clinical Training and Skills Proficiency: Licensed out-of-hospital emergency care providers, may, under direct supervision as determined by the physician medical director, perform skills as identified in 172 NAC 11-009, in a hospital for the purpose of maintaining skill proficiency. The skills performed must be specifically identified by the physician medical director and be commensurate with the individuals license level.

11-007.02 Acceptable Continuing Education: In order for an activity to be accepted for continuing education to renew a license, the activity must meet the following criteria:

1. Be a planned, formally organized program of learning which directly contributes to the professional competency of out-of-hospital emergency care providers;
2. Must have objectives that relate to the subject matter of an EMS course with an emergency medical service focus;
3. Be made available on a specific date and time or be a distributed learning program as defined in 172 NAC 11-002;
4. Have an instructor who has experience or training in the content area(s) of the course being taught;
5. Must have a course title and consist of content that is at least one hour in duration;
6. Delineate the number of contact hours, excluding meals and breaks to be awarded at the completion of the activity, with proof of such completion being documented pursuant to 172 NAC 11-008.05C; AND
7. Have a mechanism that assures attendance/ participation. All distributive learning programs must test each student at the completion of the distributive learning program.

11-007.03 The following types of activities will be accepted as continuing education for renewal of a license:

1. Programs at State and National Association meetings, e.g. a meeting of the Nebraska Emergency Medical Services Association, Professional Ambulance Association of Nebraska, or similar organizations;

2. Workshops, seminars, and/or conferences where the subject matter has an emergency medical service focus;
3. Formal education courses given at accredited institutions of higher education where the subject matter has an emergency medical service focus. No more than 15 hours of continuing education credit will be awarded by the Board for each semester hour earned or 10 hours for each quarter hour earned;
4. Nebraska EMS Leadership Training and/or Nebraska EMS Programs Leadership Conference and/or EMS Operations Courses. No more than 6 hours will be awarded in each 24 month renewal period for one course or a combination of any of these courses for all licensure levels;
5. National Incident Management System (NIMS) Training. The Board will only award hours for core courses;
6. Distributive Learning Programs approved by Continuing Education Coordinating Board for Emergency Medical Services (CECBEMS); and
7. Basic cardiopulmonary resuscitation certification (Initial or recertification course). 4 hours will be awarded for each 24 month renewal period for all licensure levels.

11-007.04 Non-acceptable Continuing Education: The following activities are not acceptable for continuing education to renew a license:

1. Advanced NIMS Training where the subject matter does not have an emergency medical service focus;
2. Advanced scene management courses where the subject matter does not have an emergency medical service focus;
3. Classes offered by Homeland Security where the subject matter does not have an emergency medical service focus;
4. Courses that relate to job duties performed in a hospital, nursing home or other health care facility where the subject matter does not have an emergency medical service focus; and
5. Fire training courses where the subject matter does not have an emergency medical service focus.

11-007.05 Continuing education programs or courses are not required to be pre-approved by the Board prior to any such program or course offering.

11-007.06 A licensee who is an instructor of an EMS course as set out in 172 NAC 11-002 may receive one hour of continuing education credit for each hour of initial instruction of an EMS Course during a renewal period. A maximum of one third of the licensee's required continuing education hours for a renewal period may be awarded for instruction. Credit will not be given to the licensee for subsequent instruction of the same EMS course.

11-007.07 Material that is delivered by means of classroom, internet or inter-active video that allows for two-way communication between an instructor and a student is instructor based content and does not qualify as distributive learning.

11-008 RENEWAL: An individual who wants to renew his/her out-of-hospital emergency care provider credential must request renewal as specified in 172 NAC 11-008.02. All out-of-hospital emergency care providers' credentials issued by the Department will expire on December 31 as

follows:

1. Emergency Medical Technicians – Every Odd-Numbered Year
2. Paramedics – Every Even-Numbered Year
3. EMT–Intermediates – Every Even-Numbered Year
4. Advanced Emergency Medical Technicians – Every Even-Numbered Year
5. Emergency Medical Responders – Every Even-Numbered Year

Following the effective date of these regulations, to achieve the biennial renewal cycle the expiration date of credentials will be adjusted to coincide with these year ends by renewing for one year those credentials with expiration dates which do not coincide with these dates. Continuing educational requirements will be adjusted accordingly.

11-008.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. Information on how to request renewal and how to place credential on inactive status; and
6. A request for disclosure of whether the applicant is practicing as an EMT-Intermediate, Advanced Emergency Medical Technician or Paramedic in a hospital or health clinic, and if so the name of the hospital(s) or clinic(s).

11-008.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;

- c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements as specified in 172 NAC 11-007.01 or requested a waiver if s/he meets the requirements of 172 NAC 11-008.03 and 11-008.04;
 - (3) Has not, since the last renewal of the credential, committed any act(s) which would be grounds for action against a credential as specified in 172 NAC 11-010.01 or if an act(s) was committed, provide an explanation of all such act(s); and
 - (4) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record)
 - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a licensure examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and

- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

11-008.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 11-002, is not required to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

11-008.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

11-008.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include suffering from a serious or disabling illness or physical disability which prevented completion of the continuing competency requirements during the 24 months immediately preceding the certification renewal date.

11-008.05 Audit Of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

11-008.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

11-008.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

11-008.05C Acceptable documentation that the credential holder has met the continuing competency requirements which include:

1. Certificates of completion;
2. Training Rosters;

3. Service minutes that list training course title, length of training, name of instructor and names of those who attended training; or
4. List of individual's training signed by service training officer.

11-008.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

11-008.05E The Department will notify the credential holder upon satisfactory completion of the audit.

11-008.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

11-008.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

11-008.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

11-008.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

11-008.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

11-008.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

11-008.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to submit documentation of continuing competency.

11-008.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

11-008.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as an out-of-hospital emergency care provider terminates.

11-008.08D Practice after Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 11-012 or such other action as provided in the statutes and regulations governing the credential.

11-008.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of out-of-hospital emergency care provider after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 11-012.

11-008.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

11-008.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

11-008.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of an out-of-hospital emergency care provider, but may represent him/herself as having an inactive credential.

11-008.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 11-012.

11-009 PRACTICES AND PROCEDURES FOR LICENSED OUT-OF-HOSPITAL EMERGENCY CARE PROVIDERS: The following practices and procedures for out-of-hospital emergency care providers have been taken from the United States Department of Transportation, National Emergency Medical Services Education Standards, National Medical Services Scope of Practice including modifications, and approved by the Board.

11-009.01 Emergency Medical Responder Practices and Procedures: The Emergency Medical Responder initiates immediate lifesaving care to critical patients who access the emergency medical system. This individual possesses the basic knowledge and skills necessary to provide lifesaving interventions while awaiting additional EMS response and to assist higher level personnel at the scene and during transport. The Emergency Medical Responder is intended to function as part of a comprehensive EMS response.

11-009.01A An Emergency Medical Responder while functioning in response to a medical emergency:

1. Responds safely to the scene of the emergency;
2. Determines:

- a. Scene Safety;
- b. Number of Patients;
- c. Nature of the illness or mechanism of injury; and
- d. Resources needed to manage the emergency;
3. Communicates:
 - a. Resources needed to dispatch agency or appropriate agencies;
 - b. Scene Hazards to other responders at the scene and still enroute; and
 - c. Patient condition to the patient transporting service;
4. Completes a patient care report;
5. While awaiting the transporting service performs a patient primary, secondary, and reassessments as appropriate for the patient's illness and/or injury and life span development. This includes:
 - a. Level of consciousness;
 - b. Use of nationally recognized noninvasive scales and scores including but not limited to:
 - (1) Glasgow Coma Scale;
 - (2) Revised Trauma Score;
 - (3) Cincinnati Stroke Scale; and
 - (4) Los Angeles Pre-hospital Stroke Scale;
 - c. Airway status:
 - (1) Patency; and
 - (2) Partial or fully obstructed;
 - d. Breathing status:
 - (1) Rate; and
 - (2) Breathing Sounds:
 - (a) Normal;
 - (b) Stridor;
 - (c) Wheezing;
 - (d) Gurgles; and
 - (e) Effort of Breathing;
 - e. Circulatory status:
 - (1) Presence or absence of pulse;
 - (2) Rate; and
 - (3) Bleeding;
 - f. Skin status:
 - (1) Color;
 - (2) Temperature;
 - (3) Moisture; and
 - (4) Capillary refill;
6. Gathers patient demographic data;
7. Gathers a patient history determining:
 - a. Chief complaint;
 - b. Signs and symptoms; and
 - c. Events leading up to this illness/injury;
8. Rapid full body scan;
9. Focused assessment based on complaint;
10. Head to toe exam;
11. Vital Signs:

- a. Pulse;
 - b. Respiratory rate; and
 - c. Manual blood pressure;
12. While awaiting the transporting emergency medical service provide care as appropriate for the patient's illness and/or injury and life span development. This includes:
- a. Manual airway maneuvers;
 - b. Sellick's maneuver;
 - c. Manual non-visualized foreign body airway obstruction removal;
 - d. Insert and remove oropharyngeal airway;
 - e. Upper airway suctioning;
 - f. Positive pressure ventilation by:
 - (1) Mouth to mask; and
 - (2) Bag valve mask;
 - g. Oxygen administration using:
 - (1) Non-Rebreather mask;
 - (2) Nasal cannula; and
 - (3) Positive pressure ventilation;
 - h. Manual cardiopulmonary resuscitation;
 - i. Use of automatic or semi-automatic external defibrillator;
 - j. Manual stabilization of suspected:
 - (1) Spinal injuries; and
 - (2) Extremity injuries;
 - k. External application of cold to swollen facial and extremity injuries;
 - l. Control hemorrhaging including use of tourniquet;
 - m. Bandaging wounds;
 - n. Moving patient by drags, lifts and carries due to:
 - (1) Imminent danger to the patient and/or out of hospital emergency care provider; or
 - (2) Limited access to patient and delay that would likely increase morbidity and mortality;
 - o. Assist with normal childbirth;
 - p. Use of auto injector antidote kits during an exposure for treatment of:
 - (1) Self; or
 - (2) Other emergency responders.

11-009.01B The Emergency Medical Responder while functioning with a licensed emergency medical service may perform all of the practices and procedures defined in 172 NAC 11-009.01A and in addition may,

1. After successful completion of appropriate training;
2. With the approval of the service's Physician Medical Director;
3. Under written Physician Medical Director approved protocols;
4. While awaiting the transporting service, provide care as appropriate for the patient's illness and/or injury and life span development. This includes:
 - a. Administration of the following medications:
 - (1) Aspirin for suspected acute myocardial infarction; and
 - (2) Epinephrine auto injectors for:

- (a) Status asthmaticus; or
 - (b) Anaphylaxis;
 - b. Application of devices for immobilization of suspected:
 - (1) Spinal injuries; or
 - (2) Extremity Injuries;
 - c. Use of patient transport devices;
- 5. Use an auto injector antidote kit during an exposure for treatment of patients in mass numbers when higher level out of hospital emergency care providers are insufficient in numbers to administer the antidote kit and delay in the administration of the antidote would lead to mortality and morbidity of patients;
- 6. Assist with continued patient care under the direct supervision of an Emergency Medical Technician, Advanced Emergency Medical Technician, Emergency Medical Technician-Intermediate, or Paramedic not to exceed the practices and procedures in 172 NAC 11-009.01A and 11-009.01B;
- 7. Perform self-administration of prophylactic medications:
 - a. For treatment immediately following a significant exposure to an infectious pathogen;
 - b. For the prevention of disease progression in the out of hospital emergency care provider;
 - c. In situations where delay in the administration of the prophylactic medications would significantly reduce the effectiveness against the infectious pathogen; and
 - d. Under the direction of the physician medical director's approved protocol and in conjunction with the physician medical director's approved infection control plan; and
- 8. Transport a patient if an Emergency Medical Technician, or higher level out of hospital emergency care provider is present and providing patient care in the patient compartment of the ambulance, except as defined in 172 NAC 11-009.01C.

11-009.01C The Emergency Medical Responder who is a member/employee of a licensed emergency medical service may transport a patient in the event an emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate, or paramedic fails to respond to the emergency call if:

- 1. The licensed service has prior written approval from the Physician Medical Director to allow the Emergency Medical Responder to transport and perform any of the practices and procedures defined in 172 NAC 11-009.01B4b and 11-009.01B4c;
- 2. The Physician Medical Director may optionally approve the practices and procedures defined in 172 NAC 11-009.01B4a;
- 3. The Emergency Medical Responder has successfully completed appropriate training that meets the National Emergency Medical Services Educational Standards listed under the Emergency Medical Technician level as they relate to application of:
 - a. Spinal and extremity immobilization devices;
 - b. Patient transport devices, AND
 - c. Patient transport to include the following educational standards from the National Emergency Medical Services Educational Standards:
 - (1) Fundamental depth and simple breath of primary assessment subject matter to form a general impression;

- (2) Fundamental depth and foundational breath of secondary assessment subject matter to assess anatomical regions;
 - (3) Fundamental depth and foundational breath of reassessment subject matter to determine how and when to perform reassessments;
 - (4) Simple depth and foundation breath of the medical overview subject matter to make transport mode and destination decision making;
 - (5) Fundamental depth and foundational breath of trauma overview subject matter to make rapid transport, destination and transport mode decision making; and
 - (6) Simple depth and foundation breath of the principals of safely operating a ground ambulance;
4. The Emergency Medical Responder has the approval of the Physician Medical Director;
 5. The licensed service meets the Practices and Procedure Standards as defined in 172 NAC 12-004.10; and
 6. The Emergency Medical Responder completes a patient care report that complies with 172 NAC 12-004.09C.

11-009.02 Emergency Medical Technician Practices and Procedures: The Emergency Medical Technician provides basic emergency medical care and transportation for critical and emergent patients who access the emergency medical system. This individual possesses the basic knowledge and skills necessary to provide patient care and transportation under the physician medical director's over site. Emergency Medical Technician is the minimum level of provider required to transport a patient.

11-009.02A An Emergency Medical Technician, who is functioning as a member or employee of a licensed emergency medical service and under physician medical director approved written protocol may:

1. Respond safely to the scene of the emergency;
2. Determines:
 - a. Scene Safety;
 - b. Number of Patients;
 - c. Nature of the illness or mechanism of injury; and
 - d. Resources needed to manage the emergency;
3. Communicate:
 - a. Resources needed to dispatch agency or appropriate agencies;
 - b. Scene hazards to other responders at the scene and still enroute; and
 - c. Patient condition to the:
 - (1) Patient transporting service if another out-of-hospital provider will be transporting the patient; or
 - (2) Receiving facility;
4. Employ interview and communication techniques that:
 - a. Adjust for:
 - (1) Age and development;
 - (2) Special needs; and
 - (3) Cultural differences;
 - b. Verbally defuses:

- (1) Patients;
 - (2) Family members; and
 - (3) Bystanders;
5. Complete a patient care report;
 6. Perform patient primary, secondary, and reassessments as appropriate for the patient's illness and/or injury and life span development; also treats or adjusts treatment based on assessment findings. This includes:
 - a. Level of consciousness;
 - b. Patient condition or general impression:
 - (1) Stable;
 - (2) Potentially unstable; and
 - (3) Unstable;
 - c. Use of nationally recognized noninvasive scales and scores including but not limited to:
 - (1) Glasgow Coma Scale;
 - (2) Revised Trauma Score;
 - (3) Cincinnati Stroke Scale; and
 - (4) Los Angeles Pre-hospital Stroke Scale;
 - d. Airway status:
 - (1) Patency; and
 - (2) Partial or fully obstructed;
 - e. Breathing status:
 - (1) Rate;
 - (2) Breathing sounds:
 - (a) Normal;
 - (b) Stridor;
 - (c) Wheezes;
 - (d) Crackles; and
 - (e) Silent Chest;
 - (3) Effort of breathing:
 - (a) Positioning;
 - (b) Retractions; and
 - (c) Accessory muscle use; and
 - (4) Chest Symmetry;
 - f. Circulatory status:
 - (1) Presence or absence of pulse;
 - (2) Rate;
 - (3) Rhythm;
 - (4) Strength; and
 - (5) Bleeding;
 - g. Skin status:
 - (1) Color;
 - (2) Temperature;
 - (3) Moisture; and
 - (4) Capillary refill;
 - h. Gathering patient demographic data;
 - i. Gathering a patient history including:
 - (1) Chief complaint;

- (2) Signs and symptoms;
- (3) Allergies;
- (4) Medications;
- (5) Past medical history;
- (6) Last oral intake;
- (7) Events leading up to illness and/or injury;
- (8) History of current complaint including:
 - (a) Onset;
 - (b) Provocation and/or palliation;
 - (c) Quality of pain/discomfort;
 - (d) Radiation of pain/discomfort;
 - (e) Severity of pain/discomfort; and
 - (f) Time of onset;
- (9) Current health status; and
- (10) Other health and scene information needed to form a general impression;
- j. Rapid full body scan;
- k. Focused assessment based on complaint;
- l. Head to toe exam;
- m. Vital Signs:
 - (1) Pulse Rate;
 - (2) Respiratory Rate; and
 - (3) Manual Blood Pressure;
- n. Non-invasive patient monitoring devices:
 - (1) Blood pressure;
 - (2) Pulse oximetry without wave form interpretation;
 - (3) Carbon monoxide without wave form interpretation;
 - (4) End tidal carbon dioxide without wave form interpretation;
 - (5) Body temperature; and
 - (6) Apply EKG electrodes and obtain an EKG tracing for purpose of:
 - (a) Transmitting the EKG to another location for interpretation;
 - (b) Assisting an out-of-hospital emergency care provider whose scope of practice includes EKG interpretation; and
 - (c) Handing off the tracing upon arrival at the receiving facility for interpretation;
- 7. Provides patient care to the sick and injured. This care includes:
 - a. Manual airway maneuvers;
 - b. Sellick's maneuver;
 - c. Manual non-visualized foreign body airway obstruction removal;
 - d. Insertion and removal of airway adjuncts including;
 - (1) Oropharyngeal airway; and
 - (2) Nasopharyngeal airway;
 - e. Upper airway suctioning;
 - f. Suctioning an airway stoma;
 - g. Positive pressure ventilation by:
 - (1) Mouth to mask;
 - (2) Bag valve mask; or
 - (3) Manually triggered oxygen powered device;
 - h. Oxygen administration by:

- (1) Non-Rebreather mask;
- (2) Nasal cannula;
- (3) Venturi mask; and
- (4) Positive pressure ventilation;
- i. Cardiopulmonary Resuscitation by:
 - (1) Manual means; or
 - (2) Mechanical devices;
- j. Use of Automatic or semi-automatic external defibrillator;
- k. Manual stabilization of suspected:
 - (1) Spinal injuries; and
 - (2) Extremity injuries;
- l. Application of devices for immobilization of suspected:
 - (1) Spinal injuries; and
 - (2) Extremity injuries;
- m. External application of cold and heat for treatment of injuries or environmental emergencies;
- n. Control hemorrhaging including the use of a tourniquet;
- o. Bandaging wounds;
- p. Non - invasive treatment of shock;
- q. Moving patient by drags, lifts and carries due to:
 - (1) An imminent danger to the patient and/or out of hospital emergency care provider; or
 - (2) Limited access to patient and delay would likely increase morbidity and mortality;
- r. Use of patient transport devices;
- s. Transport of the patient;
- t. Assist with normal or complicated childbirth;
- u. Monitor an established:
 - (1) Urinary catheter; and
 - (2) Nasal or Oral gastric tube;
- v. Assist the patient under the patient's direction in taking prescribed medications unique to that patient including:
 - (1) Nitroglycerin by sublingual route;
 - (2) Bronchodilators with a mechanism of action that is for the immediate relief of bronchospasm and/or bronchoconstriction delivered by metered dose inhaler; and
 - (3) Epinephrine by auto injector;
- w. Administration of:
 - (1) Oral glucose;
 - (2) Aspirin for suspected acute myocardial infarction; and
 - (3) Use auto injector antidote kits during an exposure for treatment of:
 - (a) Self;
 - (b) Other emergency responders; and
 - (c) Patients in mass numbers when higher level out-of-hospital emergency care providers are insufficient in numbers to administer the antidote kit and delay in the administration of the antidote would lead to mortality and morbidity of patients; and
- x. Self-administration of prophylactic medications:

- (1) For treatment immediately following a significant exposure to an infectious pathogen;
- (2) For the prevention of disease progression in the out-of-hospital emergency care provider;
- (3) In situations where delay in the administration of the prophylactic medications would significantly reduce the effectiveness against the infectious pathogen; and
- (4) Under the direction of the physician medical director approved protocol and in conjunction with the physician medical director approved infection control plan.

11-009.02B Emergency Medical Technicians while functioning as a member or employee of a licensed emergency medical service may perform the practices and procedures as defined in 172 NAC 11-009.02A and in addition may:

1. After successful completion of appropriate training;
2. With the approval of the service's Physician Medical Director;
3. Under written Physician Medical Director approved protocols; and
4. Provide care as appropriate for the patient's illness and/or injury and life span development which includes:
 - a. Insertion and removal of airway adjuncts not intended for insertion into the trachea as the sole means to provide for a patent airway limited to:
 - (1) Dual lumen airway; and
 - (2) Supraglottic airways, limited to Combitube, King Airway all types and sizes, PTL or equipment as determined by the Board;
 - b. Insertion and removal of non-visualized advanced airways;
 - c. Suctioning using special ports or lumens which are part of a non-visualized advanced airway for temporary gastric suctioning;
 - d. Use of Impedance Threshold Device in cardiac arrest;
 - e. When trained for peripheral intravenous fluid monitoring only:
 - (1) Monitor only non- medicated intravenous solutions of:
 - (a) 0.9% Sodium chloride;
 - (b) Lactated ringers; and
 - (c) Dextrose 5% in water;
 - (2) Maintain an ordered rate of infusion without the use of an electronic mechanical device; and
 - (3) Stop the infusion if intravenous line becomes compromised;
 - f. When trained for establishing peripheral intravenous access and monitoring intravenous fluids:
 - (1) Cannulate peripheral veins in the extremities;
 - (2) Administer and monitor only non- medicated intravenous solutions of:
 - (a) 0.9% Sodium chloride;
 - (b) Lactated ringers; and
 - (c) Dextrose 5% in water;
 - (3) Adjust rate of infusion based on patient condition without the use of an electronic mechanical device;
 - (4) Maintain an ordered rate of infusion without the use of electronic mechanical device; and

- (5) Stop the infusion and discontinue intravenous access if the intravenous line becomes compromised;
- g. Use of glucose monitor;
- h. Administration of the following medications:
 - (1) Albuterol by nebulizer for respiratory distress; and
 - (2) Epinephrine by auto injector for:
 - (a) Status Asthmaticus; and
 - (b) Anaphylaxis.

11-009.03 Advanced Emergency Medical Technician Practices and Procedures: The Advanced Emergency Medical Technician provides basic and limited advanced skills focused on the acute management and transportation of critical and emergent patients. This individual possesses the basic knowledge and limited advanced skills necessary to provide patient care and transportation under the physician medical director's over site.

11-009.03A An Advanced Emergency Medical Technician, while functioning as a member or employee of a licensed advanced life support emergency medical service may perform all the practices and procedures in 172 NAC 11-009.02A. In addition, with the approval of the service's physician medical director or as determined by the medical staff of the hospital or by the governing authority of the health clinic, this care may include the following as set forth in written protocols:

1. Insertion and removal of airway adjuncts not intended for insertion into the trachea as the sole means to provide for a patent airway limited to:
 - a. Dual lumen airway; and
 - b. Supraglottic airway;
2. Insertion and removal of non-visualized advanced airways;
3. Suctioning using special ports or lumens which are part of a non-visualized advanced airway for temporary gastric suctioning;
4. Use of Impedance Threshold Device in cardiac arrest;
5. Determine Lung Sounds:
 - a. Vesicular;
 - b. Bronchovesicular;
 - c. Bronchial sounds; and
 - d. Adventitious sounds;
6. Use of glucose monitor;
7. Intravenous therapy including:
 - a. Establish peripheral intravenous access;
 - b. Monitoring established intravenous access site;
 - c. Administer and monitor non-medicated intravenous fluids of:
 - (1) 0.9% Sodium Chloride;
 - (2) Lactated Ringers; and
 - (3) Dextrose 5% in Water;
 - d. Adjust intravenous fluid administration rate;
 - e. Discontinue Intravenous therapy; and
 - f. Use of electronic and non-electronic devices to control rate of administration;
8. Intraosseous therapy including:
 - a. Establishing intraosseous access;

- b. Monitoring an established intraosseous access site;
 - c. Administer and monitor through intraosseous site non-medicated intravenous fluids of:
 - (1) 0.9% Sodium Chloride;
 - (2) Lactated Ringers; and
 - (3) Dextrose 5% in Water;
 - d. Adjust fluid administration rate;
 - e. Discontinue Intraosseous therapy; and
 - f. Use of electronic devices and non-electronic devices to control rate of administration;
9. Venipuncture;
10. Administration of approved medications by:
- a. Bolus intravenous and intraosseous route;
 - b. Subcutaneous injection;
 - c. Intramuscular injection;
 - d. Oral route;
 - e. Sublingual route;
 - f. Inhalation; and
 - g. Nasal; and
11. Administration of the following approved medications:
- a. Aspirin;
 - b. Nitroglycerin;
 - c. Albuterol;
 - d. Epinephrine;
 - e. Glucagon;
 - f. Dextrose;
 - g. Naloxone; and
 - h. Morphine.

11-009.04 Emergency Medical Technician-Intermediate Practice and Procedures: The Emergency Medical Technician–Intermediate provides basic and focused advanced skills for the acute management and transportation of critical and emergent patients. This individual possesses the basic and advanced knowledge and a focused group of skills and medications to provide patient care and transportation under the physician medical director over site.

11-009.04A An Emergency Medical Technician-Intermediate (EMT-I), while functioning as a member or employee of a licensed advanced life support emergency medical service with the approval of the service’s physician medical director or as determined by the medical staff of the hospital or by the governing authority of the health clinic, and under physician medical director approved written protocol may perform all the practices and procedures of an Emergency Medical Responder, Emergency Medical Technician, and Advanced Emergency Medical Technician as defined in 172 NAC 11-009. In addition, EMT-I Practice and Procedures include:

- 1. Integration of scene and patient assessment findings to form a field impression;
- 2. Formulate and as needed modify a treatment plan;
- 3. Performs an advanced physical assessment:
 - a. Percussion of the chest;

- b. Auscultation of lung sounds; and
- c. Auscultation of heart tones;
4. Visualized foreign body airway obstruction removal;
5. Insertion and removal of advanced airway adjuncts including:
 - a. Dual lumen airway;
 - b. Supraglottic airway; and
 - c. Endotracheal tube through the oral route;
6. Suctioning of the visualized and non-visualized advanced airway adjuncts;
7. Suctioning using special ports or lumens which are part of a non-visualized advanced airway for temporary gastric suctioning;
8. Placement of oral and nasal gastric tube;
9. Positive pressure ventilation by automatic transport ventilator to include the use of PEEP;
10. Use of Impedance Threshold Device in cardiac arrest;
11. Administration of supplemental oxygen by:
 - a. Simple mask; and
 - b. Partial rebreather mask;
12. Decompression of tension pneumothorax;
13. Interpretation of Lead One(I), Two (II), and Three (III) electrocardiograms;
14. Therapeutic electrical therapy:
 - a. Manual defibrillation; and
 - b. Transcutaneous pacing;
15. Use of devices to monitor:
 - a. End tidal Carbon Dioxide including capnography;
 - b. Pulse Oximetry; and
 - c. Airway/breathing pressures;
16. Use of glucose monitor;
17. Intravenous therapy including:
 - a. Establish peripheral intravenous access;
 - b. Monitoring established intravenous access site;
 - c. Administer and monitor intravenous fluids of:
 - (1) 0.9% Sodium Chloride;
 - (2) Lactated Ringers; and
 - (3) Dextrose 5% in Water;
 - d. Adjust intravenous fluid administration rate;
 - e. Discontinue intravenous therapy; and
 - f. Use of electronic and non-electronic devices to control rate of administration;
18. Intraosseous therapy including:
 - a. Establishing intraosseous access;
 - b. Monitoring an established intraosseous access site;
 - c. Administer and monitor through intraosseous site intravenous fluids of:
 - (1) 0.9% Sodium Chloride;
 - (2) Lactated Ringers; and
 - (3) Dextrose 5% in Water;
 - d. Adjust fluid administration rate;
 - e. Discontinue intraosseous therapy; and
 - f. Use of electronic devices to control rate of administration;
19. Venipuncture;

20. Administration of approved medications by:
 - a. Bolus intravenous and intraosseous route;
 - b. Subcutaneous injection;
 - c. Intramuscular injection;
 - d. Oral route;
 - e. Sublingual route;
 - f. Inhalation route;
 - g. Endotracheal tube route; and
 - h. Nasal route;
21. Administration of the following approved medications:
 - a. Adenosine;
 - b. Atropine;
 - c. Epinephrine;
 - d. Lidocaine 2%;
 - e. Nitroglycerin;
 - f. Morphine;
 - g. Naloxone;
 - h. Furosemide;
 - i. Diazepam;
 - j. 50% Dextrose;
 - k. Albuterol;
 - l. Ipratropium;
 - m. Terbutaline;
 - n. Methylprednisolone;
 - o. Dexamethasone;
 - p. Triamcinolone;
 - q. Acetylsalicylic acid;
 - r. Vasopressin;
 - s. Amiodarone;
 - t. Glucagon; and
 - u. Diphenhydramine; and
22. With the approval of the emergency medical service's physician medical director and showing completion of a nationally recognized course in Advanced Cardiac Life Support (ACLS), the Emergency Medical Technician-Intermediate may:
 - a. Perform synchronized cardioversion; and
 - b. Establish and maintain infusion of Lidocaine.

11-009.05 Paramedic Practice and Procedures: The Paramedic is an allied health professional whose primary focus is to provide advanced emergency medical care for critical and emergent patients who access the emergency medical system. This individual possesses the complex knowledge and skills necessary to provide patient care and transportation under medical oversight.

11-009.05A A Paramedic while functioning as a member or employee of a licensed advanced life support emergency medical service with the approval of the service's physician medical director or as determined by the medical staff of the hospital or by the governing authority of the health clinic, and under physician medical director approved written protocol may perform all the practices and procedures of an Emergency Medical

Responder, Emergency Medical Technician, Advanced Emergency Medical Technician, and Emergency Medical Technician-Intermediate as defined in 172 NAC 11-009. In addition this care includes;

1. Integration of scene and patient assessment findings with knowledge of epidemiology and pathophysiology to:
 - a. Form a field impression;
 - b. Develop differential diagnoses; and
 - c. Formulate and as needed modify a treatment plan;
2. A comprehensive patient primary assessment, secondary assessment, reassessments, evaluation of body systems, body functions, and anatomic regions as appropriate for the patient's illness and/or injury, life span development, special needs, and cultural differences. Also treats or adjust treatments based on assessment findings. This includes:
 - a. Therapeutic communication;
 - b. History taking techniques;
 - c. Auscultation;
 - d. Inspection;
 - e. Palpation;
 - f. Percussion;
 - g. Use of Otoscope and Ophthalmoscope;
 - h. Analysis of Blood Chemistry results;
 - i. Monitor invasive blood pressure;
 - j. Monitor body temperature using an esophageal probe;
 - k. Use of electronic and non-electronic devices to determine the presences, absence, and /or the amount of gas(es) in inhaled or exhaled breath;
 - l. Use of noninvasive electronic patient monitoring devices;
 - m. Use of electronic and non-electronic devices to monitor airway and or breathing volumes and pressures;
 - n. Interpretation of:
 - (1) Single and multiple lead electrocardiograms;
 - (2) Numerical results, positive/negative results, waveform and/or graphs generated by the devices defined in 172 NAC 11-006.05A2 k through m; and
 - (3) Monitor but not establish arterial access lines; and
 - o. Use of glucose monitor; and
3. Provide patient care as appropriate for the patient's illness and/or injury and life span development. This care may include:
 - a. Insertion and removal of advanced airway adjuncts including:
 - (1) Devices and/or methods utilizing a non-visualized insertion technique; and
 - (2) Devices and/or methods requiring a visualized insertion technique;
 - b. Perform emergency cricothyrotomy established by:
 - (1) Surgical technique; or
 - (2) Percutaneous technique;
 - c. Perform pharmacological assisted intubation including:
 - (1) Use of sedative pharmacological agents; and/or
 - (2) Use of paralytic pharmacological agents;
 - d. Visualized removal foreign body airway obstructions;
 - e. Suctioning of the visualized and non-visualized advanced airway adjuncts;

- f. Suctioning using special ports or lumens which are part of a non-visualized advanced airway for temporary gastric suctioning;
- g. Placement of nasal and oral gastric tubes;
- h. Placement of esophageal probe for body temperature monitoring;
- i. Use of devices that solely or in conjunction another device assist with or ventilate a patient including:
 - (1) Automatic transport ventilator;
 - (2) Impedance Threshold Device in Both Cardiac Arrest and Non Cardiac Arrest Patients;
 - (3) Continuous positive airway pressure (CPAP);
 - (4) Bi-level positive airway pressure (BiPAP);
 - (5) Positive end expiratory pressure (PEEP);
 - (6) Peak inspiratory pressure (PIP); and
 - (7) Blending with room air or compressed air to a desired percent of inspired oxygen;
- j. Supplemental oxygen administration by all devices;
- k. Decompression of a tension pneumothorax;
- l. Therapeutic electrical therapy:
 - (1) Manual Defibrillation;
 - (2) Cardioversion; and
 - (3) External Pacing;
- m. Intravenous therapy including:
 - (1) Establish peripheral intravenous access;
 - (2) Establish intravenous access through external jugular vein;
 - (3) Access, maintain, and/or monitor but not establish central intravenous lines;
 - (4) Monitoring established intravenous access site;
 - (5) Administer and monitor medicated and non-medicated intravenous fluids;
 - (6) Adjust intravenous fluid administration rate;
 - (7) Discontinue intravenous therapy; and
 - (8) Use of electronic and non-electronic devices to control rate of administration;
- n. Intraosseous therapy including:
 - (1) Establishing intraosseous access;
 - (2) Monitoring an established intraosseous access site;
 - (3) Administer and monitor through intraosseous site medicated and non-medicated intravenous fluids;
 - (4) Adjust fluid administration rate;
 - (5) Discontinue intraosseous therapy; and
 - (6) Use of electronic and non-electronic devices to control rate of administration;
- o. Venipuncture;
- p. Medication administration by injection, bolus, or infusion by parenteral routes including:
 - (1) Intradermal;
 - (2) Subcutaneous;
 - (3) Intramuscular;
 - (4) Intravenous; and
 - (5) Intraosseous;
- q. Medication administration absorbed through percutaneous routes:
 - (1) Sublingual, buccal;

- (2) Topical;
- (3) Eyes;
- (4) Ears;
- (5) Nose;
- (6) Lungs;
- (7) Enteral routes;
- (8) Oral;
- (9) Gastric; and
- (10) Rectal;
- r. Administration of:
 - (1) Physician Medical Director approved medications;
 - (2) On line medical control ordered medications;
 - (3) Physician ordered medications specific to the patient; and
 - (4) Mid-level Practitioner ordered medications specific to the patient; and
- s. Administration of blood and blood products.

11-009.06 Temporary License Out-of-Hospital Emergency Care Provider possesses the knowledge and skills to provide emergency lifesaving interventions under field supervision. The temporary license holder is intended to function as part of a team and not to be the sole licensed out-of-hospital emergency care provider but acting under field supervision as defined in 172 NAC 11-002 and may perform all of the practice and procedures as defined for the specific level of credential listed in 172 NAC 11-009 when the temporary licensee is:

- 1. Functioning with a licensed emergency medical service,
- 2. Under physician medical director approval
- 3. Under physician medical director approved protocols,
- 4. Under the field supervision of the same or higher level of out-of-hospital emergency care provider outlined in 172 NAC 11-004.02

11-009.07 A paramedic, an emergency medical technician-intermediate, and an advanced emergency medical technician while functioning as an employee or volunteer with a basic life support service, must perform only those practices and procedures as identified in 172 NAC 11-009.02.

11-009.08 An out-of-hospital emergency care provider, other than an emergency medical responder, may not assume the duties incident to the title or practice the skills of an out-of-hospital emergency care provider unless:

- 1. S/he is employed by or serving as a volunteer member of an emergency medical service licensed by the Department; and
- 2. S/he may only practice the skills s/he is authorized to employ and which are covered by the license.

11-009.09 An advanced emergency medical technician, an emergency medical technician-intermediate or a paramedic may volunteer or be employed at a hospital or a health clinic to perform activities within his/her scope of practice within such hospital or health clinic under the supervision of a registered nurse, a physician assistant or a physician.

11-009.10 An out-of-hospital emergency care provider may perform any practice or procedure which they are authorized to perform with an emergency medical service other than the service with which they are affiliated when requested by the other service when the patient for whom they are to render services is in danger of loss of life.

11-010 DISCIPLINARY ACTIONS

11-010.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law; or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently;
 - b. Beyond its authorized scope;
 - c. With gross incompetence or gross negligence; or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 11-010.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;

16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 11-010.02; or
24. Violation of the Automated Medication Systems Act.

11-010.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement;
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the licensing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
13. Disruptive behavior, whether verbal or physical, which interferes with consumer care or

- could reasonably be expected to interfere with the care;
14. Competence: An out-of-hospital emergency medical care provider must not provide services for which s/he is not trained or authorized by the physician medical director. Unprofessional conduct while practicing as an out-of-hospital emergency medical care provider includes but is not limited to:
 - a. Committing any act which endangers patient safety or welfare;
 - b. Encouraging or promoting emergency medical care by untrained or unqualified persons;
 - c. Failure to comply with emergency vehicle operating requirements pursuant to Neb. Rev. Stat. § 60-6,114; and
 - d. Failure to comply with the physician medical director's directives;
 15. Confidentiality: An out-of-hospital emergency medical care provider must hold in confidence information obtained from a patient, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law. Failure to do so constitutes unprofessional conduct;
 16. Professional Relationships: An out-of-hospital emergency medical care provider must safeguard the welfare of patients and maintain appropriate professional relationships with patients. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - a. Improper use of another person for one's own advantage;
 - b. Failure to decline to carry out emergency medical care services that have been requested when the services are known to be contraindicated or unjustified;
 - c. Failure to decline to carry out procedures that have been requested when the services are known to be outside of the out-of-hospital emergency medical care provider's scope of practice;
 - d. Verbally or physically abusing patients;
 - e. Falsification, unauthorized destruction, or failure to document patient care records;
 - f. Attempting to provide diagnostic or treatment information to patient(s) that beyond the out-of-hospital emergency medical care provider's level of training and expertise;
 - g. Delegating to other personnel those patient related services when the clinical skills and expertise of an out-of-hospital emergency medical care provider is required; and
 - h. Failure to follow the directives of the physician medical director;
 17. Sexual Harassment: An out-of-hospital emergency medical care provider must not under any circumstances engage in sexual harassment of patients or coworkers. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:
 - a. The provision or denial of emergency medical care to a patient;
 - b. The provision or denial of employment;
 - c. The provision or denial of promotions to a co-worker;
 - d. For the purpose or effect of creating an intimidating, hostile, or offensive environment for the patient or unreasonably interfering with a patient's ability to recover; or
 - e. For the purpose or effect of creating an intimidating, hostile, or offensive working environment or unreasonably interfering with the co-worker's ability to perform his/her work;
 18. Obtaining any fee for professional services by fraud, deceit, or misrepresentation;
 19. Failure to follow policies or procedures implemented in the practice to safeguard patient care;

20. Failure to safeguard the patient's dignity and right to privacy;
21. Practicing as an out-of-hospital emergency medical care provider in this state without a current Nebraska license;
22. Providing services except otherwise provided by law while not a member of a service; and
23. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents.

11-010.03 Temporary Suspension or Limitation

11-010.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 11-010.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

11-010.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

11-010.03C A temporary suspension or temporary limitation of a credential under 172 NAC 11-010.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

11-010.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

11-010.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

11-010.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 11-010.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

11-011 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number;
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer;
3. Attestation: The credential holder must;
 - a. "Attest that all the information on the offer is true and complete"; and
 - b. Provide the credential holder's signature and date.

11-011.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

11-011.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

11-011.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

11-011.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

11-011.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

11-011.06 Reinstatement following voluntary surrender is set out in 172 NAC 11-011.

11-012 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

11-012.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender

Unrelated to a Disciplinary Matter.

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number; andCertain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
 - d. Must attest that s/he:
 - (1) Is of good Character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 11-007 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 11-010 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States:

- (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act: or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. A copy of the applicant's current CPR certification from an organization approved by the Board pursuant to 172 NAC 13-017, item 2.
 3. If an Out-of-Hospital Emergency Care Provider's license has expired for less than one year from the expiration date and the renewal requirements were met prior to the expiration date, s/he must submit a written application as listed in 172 NAC 11-012.01, item 1.
 4. If an emergency medical responder or emergency medical technician license expired and s/he did not meet the renewal requirements by the renewal expiration date, s/he must submit in addition to a written application as listed in 172 NAC 11-012, item 1 the following:
 - a. A copy of the applicant's current National Registry Technician Certificate; or
 - b. Documentation of successful completion of a refresher course as defined in 172 NAC 11-002, items 6 or 7, as applicable.
 5. If an advanced emergency medical technician or a paramedic license expired for less than three years, s/he must submit in addition to a written application as listed in 172 NAC 11-012, item 1 the following:
 - a. A copy of the applicant's current National Registry Advanced Emergency Medical Technician or Paramedic Certificate; or
 - b. Documentation of successful completion of a refresher course as defined in 172 NAC 11-002 items 8 or 9, as applicable.
 6. If an emergency medical technician-intermediate does not meet the requirements outlined in 172 NAC 11-012.01 item 4 and wants to hold a license as an out-of-hospital emergency care provider s/he must follow the procedures specified in 172 NAC 11-007.01 item 7.
 7. If an advanced emergency medical technician or paramedic license has been expired for more than three years, s/he must reapply in accordance with 172 NAC 11-003.
 8. Fee: If the credential is expired or inactive, the reinstatement fee according to 172 NAC 2.

11-012.01A If an applicant has practiced while her/his credential was expired, inactive, voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

11-012.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

11-012.01C The Department will act within 150 days on all completed applications.

11-012.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

11-012.02 Reinstatement Following Suspension, Limitation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form 1-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence, and/or immigration status which may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or

- (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 11-007 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act(s) which would be grounds for action against a credential as specified in 172 NAC 11-010.01 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such act(s);and
 - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act: or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

11-012.02A The Board will make a recommendation regarding reinstatement following suspension, limitation or voluntary surrender within 180 days of receipt of the application.

11-012.02B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

11-012.02C On the basis of the written application, materials submitted by the applicant, and

the information obtained under 172 NAC 11-012.02B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 11-013, in which case a separate notice of opportunity for hearing will be sent to the applicant.

11-012.02D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

11-012.02E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

11-012.02F Denial, Modification, Limitation, or Probation: If the Board's decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decisions or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period:
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitation or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an

application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

11-012.02G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

11-012.02H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

11-012.02I The Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary or capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by a party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

11-013 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

11-013.01 Evidence of Practice: The Department will consider any of the following conditions as

prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

11-013.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a certificate. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien, foreclosure, or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last the last known address of the person to whom the penalty is assessed.

11-013.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

11-014 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

Effective Date
September 9, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 11

11-015 METHOD OF IDENTIFICATION: Every person credentialed as an out-of-hospital emergency care provider must identify himself/herself to the consumer by stating his/her name and the level of out-of-hospital emergency care provider credential that he/she holds. If the consumer requests to see the Department issued credential, the provider must make it available within 48 hours of the request. All signs, announcements, stationery, and advertisements of emergency medical services shall identify the profession.

THESE AMENDED RULES AND REGULATIONS Replace Title 172 Chapter 11, Regulations Governing the Practice of Out-of-Hospital Emergency Care Providers, effective December 27, 2005.

Approved by the Attorney General:

July 30, 2012

Approved by Governor:

September 4, 2012

Filed with Secretary of State of Nebraska:

September 4, 2012

Effective Date:

September 9, 2012

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:

http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

EFFECTIVE DATE
December 15, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 12

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 12 LICENSURE OF EMERGENCY MEDICAL SERVICES

12-001 SCOPE AND AUTHORITY. These regulations govern the credentialing of Emergency Medical Services under Neb. Rev. Stat. §§38-1201 to 38-1237, and the Uniform Credentialing Act (UCA).

12-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 38-1201 to 38-1237 known as the Emergency Medical Services Practice Act.

Advanced Emergency Medical Technician means an individual who has a current license to practice as an advanced emergency medical technician.

Advanced Life Support Service means an Emergency Medical Service that utilizes personnel that have been trained and licensed as Advanced Emergency Medical Technicians, Emergency Medical Technician-Intermediates or Paramedics and has equipment available commensurate with that level of training.

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

Assessment means the act of determining the type and degree of injury, illness or other medical disability.

Attest//Attestation means that the individual declares that all statements on the application are true and complete.

Basic Life Support Service means an Emergency Medical Service that utilizes personnel that have been trained and licensed, as a minimum, as Emergency Medical Technicians and has equipment available commensurate with that level of training.

Board means the Board of Emergency Medical Services.

Business means a business providing the service of body art, cosmetology, emergency medical services, esthetics, funeral directing and embalming, massage therapy, or nail technology.

Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with all required documentation

Confidential Information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Direct Order means a written or verbal order.

Dry Run means travel to a scene where there could be a medical emergency but no one was found to be injured or ill at that location.

Emergency Call means a call for an ambulance in which the reporting party utilizes a dedicated activation number or system intended for rapid notification of emergency services and the reporting party indicates endangerment to a person's life or limb.

Emergency Medical Service (EMS) means the organization responding to a perceived individual need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury and which is licensed either as a basic life support service or an advanced life support service.

Emergency Medical Technician means an individual who has a current license to practice as an emergency medical technician.

Emergency Medical Technician-Intermediate means an individual who has a current license to practice as an emergency medical technician-intermediate.

Paramedic means an individual who has a current license to practice as a Paramedic.

Emergency Medical Responder means an individual who has a current license to practice as a emergency medical responder.

Incident means an occurrence, natural or manmade, that requires a response to a perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. For the purpose of these regulations run, response, or call are equivalent terms.

Incident Commander means the individual responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources. The Incident Commander has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site.

License means an authorization issued by the Department to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Mandatory Reporting Law means Neb. Rev. Stat. §38-1,124.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 12.

Out-of-Hospital means locations where emergency medical services are requested to respond to actual or perceived individual needs for immediate medical care.

Out-of-Hospital Emergency Care Provider means all licensure classifications of emergency care providers established pursuant to the Act.

Patient means an individual who either identifies himself/herself as being in need of medical attention or upon assessment by an out-of-hospital emergency care provider has an injury or illness requiring treatment.

Physician Medical Director means a qualified physician who is responsible for the medical supervision of out-of-hospital emergency care providers and verification of skill proficiency of out-of-hospital emergency care providers pursuant to Neb. Rev. Stat. §38-1217.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Protocol means a set of written policies, procedures, and directions from a physician medical director to an out-of-hospital emergency care provider concerning the medical procedures to be performed in specific situations.

Qualified Physician means an individual licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to the Uniform Credentialing Act and meets any other requirements established by rule and regulation.

Qualified Physician Surrogate means a qualified, trained medical person designated by a qualified physician in writing to act as an agent for the physician in directing the actions or renewal of licensure of out-of-hospital emergency care providers.

Qualified Trained Medical Person means an Emergency Medical Responder, Emergency Medical Technician, Emergency Medical Technician-Intermediate, Advanced Emergency Medical Technician, Paramedic, Licensed Practical Nurse, Registered Nurse, Physician Assistant, or Physician and does not act as an agent of the Physician Medical Director above the level of his/her license.

Stand by Services means an emergency medical service that is requested to be readily available at a scene where there may be the potential need for such a service.

Standing Order means a direct order from the physician medical director to perform certain tasks for a patient under a specific set of circumstances

12-003 INITIAL EMERGENCY MEDICAL SERVICE LICENSE: Emergency medical services which provide emergency medical care must be licensed. There are two types of emergency medical services, basic life support and advanced life support.

12-003.01 Qualifications: To receive a credential as a basic life support service or advanced life support service, the service must meet the following qualifications:

1. Meet the standards defined in 172 NAC 12-004 or
2. Have a written agreement with a licensed service that meets the standards defined in 172 NAC 12-004 if applicable; and
3. Have a physician medical director;
4. Employ or have as a member at least one out-of-hospital emergency care provider, except for an emergency medical responder;
5. Have an advanced emergency medical technician, emergency medical technician-intermediate or paramedic as a member or employee of the service, if applying for an advanced life support service license;
6. Designate the service area that will be served by the emergency medical service;
7. Have service protocols;
8. Pass an initial inspection as set out in 172 NAC 12-005.01;
9. Must have a current Mid-Level Practitioner Controlled Substance Registration or have applied for a Mid-Level Practitioner Controlled Substance Registration, if an emergency medical service is applying for an advanced life support service license;
10. Must have a current Clinical Laboratory Improvement Amendments (CLIA) certificate if the emergency medical service is utilizing a glucose monitor.

12-003.02 Application: To apply for a credential to operate as an Emergency Medical Service (EMS), the service must submit a complete application to the Department. A complete application includes required documentation and a written application. The service may obtain an application from the Department or construct an application that contains the following information:

1. Written Application:
 - a. The full name and address of the emergency medical service;
 - b. The full name and address of the owner of the emergency medical service;
 - c. The name of each person in control of the emergency medical service;
 - d. The Social Security Number of the emergency medical service if the applicant is a sole proprietorship;
 - e. Telephone number including area code (optional);
 - f. E-Mail Address (optional);
 - g. Fax Number (optional);

- h. The full name and address of the physician medical director;
 - i. Signature of:
 - (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member; or
 - (2) Two of its members if the applicant is a limited liability company that has more than one member; or
 - (3) Two of its officers if the applicant is a corporation; or
 - (4) The head of the governmental unit having jurisdiction over the emergency medical service if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in 172 NAC 12-003.02 item 1i (1) to (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official;
 - j. Signature of the physician medical director;
 - k. Attestation by the applicant;
 - (1) That the emergency medical service has not operated in Nebraska before submitting the application; or
 - (2) To the actual number of days of operation in Nebraska before submitting the application; and
 - (3) That the service meets the standards defined in 172 NAC 12-004.
 - (4) If the applicant is a sole proprietorship, that s/he is;
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i.) A citizen of the United States;
 - (ii.) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii.) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation:
- a. Written agreement with a licensed emergency medical service if the applicant does not own or lease an ambulance;
 - b. A listing of the names and licensure levels of the members/employees of the service;
 - c. A description or map of its service area; and
 - d. A copy of the emergency medical service protocols. If the emergency medical service protocols are the State Emergency Medical Service Model Protocols, the service's officer must submit a statement attesting to that fact;
 - e. If applicable, a copy of the Mid-Level Practitioner Controlled Substance registration or a copy of the completed application for a Mid-Level Practitioner Controlled Substance registration; and
 - f. If applicable, a copy of the current Clinical Laboratory Improvement Amendments (CLIA) certificate or a copy of the completed application for a CLIA certificate.

12-003.03 Department Review: The Department will:

1. Review the application to determine completeness. Applications must be received at least 90 days prior to when the emergency medical service expects to commence operations;
2. Notify the applicant of the need for additional information/documentation;
3. Forward the completed application to the Board for its review
4. Issue or deny a license within 150 days after receipt of the completed application.

12-003.04 Board Review: The Board will:

1. Schedule an inspection within 15 working days after it receives the application for review; and
2. Make its recommendations for approval or denial of the application at the next scheduled meeting of the Board.

12-003.05 Denial of Initial Credential: If an applicant for an initial credential to operate a service does not meet all of the requirements for the credential or if the applicant is found to have done any of the grounds listed in 172 NAC 12-008, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within the 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

12-003.06 Practice Without a Credential: An emergency medical service that practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 12-011 or such other action as provided in the statutes and regulations governing the credential.

12-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

12-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

12-004 STANDARDS FOR EMERGENCY MEDICAL SERVICES: All emergency medical services must meet the standards as set forth below:

12-004.01 Ambulance Standards

12-004.01A After March 7, 1999 motor vehicles purchased for the transportation of patients must comply with the Federal Specifications for Ambulances, KKK-A-1822C, issued by the United States General Services Administration; except Section 3.16.2, COLOR, PAINT, AND FINISH, AND Section 3.16.2.1, COLOR STANDARDS AND TOLERANCES. The entity purchasing the ambulance may establish their own standards for painting and paint schemes.

Specifications may be obtained from: General Services Administration, Federal Supply Service Bureau, Specifications Section, Suite 8100, 470 East L'Enfant Plaza, SW, Washington, DC 20407;

12-004.01B Aircraft used for the transportation of patients must comply with Federal Aviation Administration Regulations 14 CFR 135 that is current on the effective date of these regulations and related Bulletins and Supplements. These documents may be obtained from: United States Department of Transportation, Subsequent Distribution Office, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, Maryland 20785; and

12-004.01C Ambulances used for the transportation of patients that are owned by licensed emergency medical services on March 7, 1999 may continue to be used as ambulances.

12-004.02 Standards for Ambulance Equipment

12-004.02A Ambulances used for the transportation of patients must carry supplies and equipment for providing care to pediatric and adult patients. Appropriate supplies and equipment are determined by the physician medical director and the level of care provided by the service. The equipment authorized by the physician medical director must be capable of providing the following procedures as authorized by the service's license.

1. Patient assessment/diagnostic measurements;
2. Airway management;
3. Bleeding control and wound management;
4. Extremity fracture immobilization;
5. Cervical and spinal immobilization;
6. Burn care;
7. Cardiac care;
8. Care of ingested poisons; and
9. Obstetrics and gynecology care;
10. Intravenous Administration sets and fluids; and
11. Medications/Controlled Substances

12-004.02B Ambulances used for the transportation of patients must have patient transport and patient comfort supplies and equipment.

12-004.02C Ambulances used for the transportation of patients must have supplies and equipment for the protection of personnel and patients from infectious diseases and for personal safety.

12-004.02D Each service must have a communications system that is capable of two-way communications with receiving hospitals, dispatchers, and medical control authorities.

12-004.02E The Board will develop and revise as needed, a recommended list of supplies and equipment to be carried on ambulances. Any changes in the listing will be provided to each basic and advanced life support emergency medical service.

12-004.03 Maintenance Standards

12-004.03A Motor vehicles used for the transportation of patients must be maintained as specified in the chassis manufacturer owner's manual and the recommendations of the ambulance manufacturer/contractor.

12-004.03B Aircraft used for the transportation of patients must be maintained in accordance with Federal Aviation Regulation 14 CFR Part 135 and/or 14 CFR Part 91 and related bulletins and supplements as defined in 172 NAC 12-004.01B.

12-004.03C Operational equipment, used for patient care or support, must be maintained in accordance with the manufacturers recommended procedures.

12-004.03D The service must maintain all ambulance and operational equipment maintenance procedure documents as described in 172 NAC 12-004 for as long as the life of the ambulance or operational equipment.

12-004.04 Sanitation Standards

12-004.04A The emergency medical service must follow written policies, approved by its physician medical director, concerning sanitation and infection control which must include:

1. Pre-exposure precautions;
2. Post-exposure procedures for personnel must be in accordance with Neb. Rev. Stat. §§ 71-506 to 71-514.05;
3. Procedures for decontamination/cleaning of the ambulance;
4. Procedures for the decontamination/cleaning of equipment; and
5. Procedures for the disposal of contaminated equipment and supplies.

12-004.04B Equipment and supplies identified by the manufacturer as single use or disposable must NOT be reused and must be disposed of in accordance with written procedures approved by the physician medical director.

12-004.05 Inspection Standards

12-004.05A An emergency medical service utilizing motor vehicles for the transportation of patients must establish and perform, as a minimum, monthly vehicle inspections to assure that the vehicle's emergency warning devices, electrical systems, engine, and fuel systems are in proper working order. Checklists must be developed and used by the service to conduct these inspections. Completed checklists must be maintained for five years.

12-004.05B Operational equipment, used for patient care or support, must be inspected and tested by the service for proper operation or function at least monthly.

12-004.05C Controlled substances or prescription medications carried must be inventoried/inspected not less than monthly or more frequently if directed by the service's physician medical director.

12-004.06 Personnel Standards

12-004.06A An emergency medical service must have a physician medical director.

12-004.06B An emergency medical service must maintain a current roster of the names of its employees/members of the service.

12-004.06C A physician, registered nurse, licensed physician assistant, or licensed practical nurse can satisfy the requirement that an ambulance when transporting patients be occupied by at least one licensed out-of-hospital emergency care provider. The individual must be acting within the scope of practice of his/her license.

12-004.06D Only licensed out-of-hospital emergency care providers and individuals as identified in 172 NAC 12-004.06C must be used to provide patient care.

12-004.06E When acting as an out-of-hospital emergency care provider for a basic life support service, the provider may only provide the level of care as defined in 172 NAC 11-009.01 or 11-009.02. When acting as an out-of-hospital emergency care provider for an advanced life support service, the provider may provide the level of care for a basic life support service and the level of care as defined in 172 NAC 11-009.03, 11-009.04 and 11-009.05.

12-004.06F On all incidents an ambulance or aircraft must be staffed by at least one, emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate, or paramedic to provide patient care and a person to drive the ambulance or operate the aircraft except as provided in 172 NAC 12-004.06G.

12-004.06G In the event one or more the individuals listed in 172 NAC 12-004.06F fails to respond to an emergency run, an emergency medical responder with appropriate training, physician medical director approval and meets the requirements listed in 172 NAC 12-004.10 item 2 may staff the ambulance along with a person to drive the ambulance. This alternate staffing is intended for emergency runs only and does not apply to a health care facility to health care facility transport of a patient.

12-004.07 Personnel Training Standards: An emergency medical service must provide training every two years for its members that includes, but is not limited to, the following areas:

1. Emergency vehicle driving for operators of motor vehicles or aircraft safety for operators of aircraft;
2. Infection control;
3. Extrication;
4. Extraction and victim recovery for special conditions as may be determined in the incident area of the emergency medical service;
5. Procedures for dealing with hazardous materials;
6. Personal safety issues; and
7. Other training as directed by the physician medical director of the service program.

12-004.07A Training must be documented for each individual that participated. The documentation must be maintained by the service for four years.

12-004.08 Medical Direction Standards: Responsibilities of a physician medical director include but are not limited to the following and those identified in 172 NAC 12-004.02A, 12-004.04A, 12-004.04B, 12-004.05C, and 12-004.07, item 7.

1. Notifying the Department of the name(s) of licensed emergency medical services for which s/he is serving as the physician medical director.
2. Authorizing out-of-hospital emergency care providers to practice the additional skills as stated in 172 NAC 11-009 upon completion of training.
3. Notifying the Department if s/he terminates his/her responsibilities as the physician medical director for an emergency medical service and the date of the termination.
4. Development and approval of medical protocols and standing orders. Model protocols and standing orders promulgated by the Board may be used, or may be modified for use by an emergency medical service. The responsibility to develop medical protocols and standing orders may be delegated by the physician medical director to other qualified physician surrogates, if designated in writing.
5. Limiting the skills that each licensed out-of-hospital emergency care provider may perform until satisfied that the out-of-hospital emergency care provider has satisfactorily completed a training program for the skill.
6. Supervising the development of a medical quality assurance program for each emergency medical service being directed. The medical quality assurance program must include, but is not limited to:
 - a. An annual review of protocols and standing orders;
 - b. Medical care audits as needed; and

- c. Continuing medical education for the emergency medical services personnel.
7. Providing monitoring and supervision of the medical quality assurance program. This responsibility may be delegated by the physician medical director to other qualified physician surrogates if designated in writing.
8. The physician medical director has the ultimate authority and responsibility for monitoring and supervision, for establishing protocols, for standing orders and for the overall supervision of the medical aspects of the emergency medical service.
9. Ensuring that each written standing order and/or protocol is appropriate for the licensure and skill level of each of the individuals to whom the performance of medical acts is delegated and authorized.
10. The physician medical director or qualified physician surrogate may exercise the option to attest that an individual meets the renewal of licensure requirements. If this option is exercised, the physician medical director or qualified physician surrogate must document that the individual is competent in the skills required for his/her level of licensure.
 - a. If the individual is an emergency medical responder, the documentation must show all of following skills the individual is competent to perform:
 - (1) Bleeding Control/Shock Management;
 - (2) Patient Assessment/Management Trauma;
 - (3) Upper Airway Adjuncts and Suction;
 - (4) Mouth to Mask Ventilation; and if trained and functioning;
 - (5) Automatic/Semi-Automatic External Defibrillator.
 - b. If the individual is an emergency medical technician, the documentation must show all of the following skills the individual is competent to perform:
 - (1) Patient Assessment Management-Trauma;
 - (2) Patient Assessment Management-Medical;
 - (3) Cardiac Arrest Management;
 - (4) Bag-Valve-Mask Apneic Patient;
 - (5) Spinal Immobilization- supine or seated;
 - (6) Random Basic Skill Verification to include but not limited to:
 - (a) Bleeding-Wounds-Shock;
 - (b) Long Bone Splinting;
 - (c) Traction Splinting; and
 - (d) Spinal Immobilization; and if trained and practicing in any or all of the following procedures;
 - (7) Advanced Airway Management;
 - (8) Management/Automatic/Semi-automatic External Defibrillator;
 - (9) Intravenous Fluids Administration and Monitoring;
 - (10) Home Monitoring Glucometers.
 - c. If the individual is an advanced emergency medical technician, the documentation must show, all of the following skills the individual is competent to perform:
 - (1) Patient Assessment Management – Trauma;
 - (2) Patient Assessment Management – Medical;
 - (3) Ventilatory Management including:
 - (a) Simple Airway Maneuvers;
 - (b) Simple Airway Adjuncts;

- (c) Bag-Valve-Mask Apneic Patient; and
 - (d) Approved Advanced Airway;
 - (4) Cardiac Arrest Management/AED;
 - (5) Spinal Immobilization – supine and seated;
 - (6) Random Basic Skill Verification to include but not limited to;
 - (a) Bleeding Control/Shock Management;
 - (b) Long Bone Splinting; and
 - (c) Joint Immobilization; and
 - (7) Intravenous Therapy and Medication Administration including;
 - (a) Peripheral Intravenous Access;
 - (b) Intravenous Fluid Administration; and
 - (c) Intravenous Bolus Medication Administration.
 - d. If the individual is an emergency medical technician-intermediate, the documentation must show all of the following skills the individual is competent to perform:
 - (1) Patient Assessment/Management;
 - (2) Ventilatory Management (ET);
 - (3) Intravenous Therapy Skills;
 - (4) Spinal Immobilization (Seated Patient); and
 - (5) Random Basic Skills which include but are not limited to the following:
 - (a) Bleeding-Wounds-Shock;
 - (b) Long Bone Splinting;
 - (c) Traction Splinting; and
 - (d) Spinal Immobilization (Lying Patient).
 - e. If the individual is a paramedic, the documentation must show, in addition to the skills in 172 NAC 12-004.08 item 10c. all of the following skills the individual is competent to perform:
 - (1) Cardiac Arrest Skills; and
 - (2) IV and Medication Skills.
11. The physician medical director of the emergency medical service is accountable for the distribution, storage, ownership and security of medications and controlled substances utilized by the emergency medical service.

12-004.08A The Board will annually develop and revise, for use of physician medical directors and qualified physician surrogates, model protocols, standing orders, operating procedures, and guidelines which may be necessary or appropriate to carry out the purposes of the act. The model protocols, standing orders, operating procedures, and guidelines may be modified by the physician medical director for use by an out-of-hospital emergency care provider or emergency medical service before or after adoption.

12-004.08B No physician medical director will incur any liability by reason of his/her use of any unmodified protocol, standing order, operating procedure or guideline provided by the Board.

12-004.09 Records Maintenance Standards: Each emergency medical service must maintain records as outlined below:

12-004.09A Personnel Records:

1. Current personnel rosters and personnel files on each out-of-hospital emergency care provider for their service. All records must be maintained until superseded. Each file must include, but not be limited to, the following:
 - a. Name, address, and telephone number;
 - b. Current level of licensure;
 - c. Current cardiopulmonary resuscitation certification; and
 - d. Other current certifications/endorsements as may be required by the physician medical director; and
2. Documentation of each out-of-hospital emergency care provider's emergency medical continuing education training, as defined in 172 NAC 11-002 that includes:
 - a. Name of the course;
 - b. Date of the course;
 - c. Name of the instructors of the course;
 - d. Number of hours of training for each course taken; and
 - e. Provider of the course: e.g. Nebraska Emergency Medical Services Association, Department of Health & Human Services Emergency Medical Service Program workshops; or
 - f. Certificates of attendance and/or participation.
3. Copies of renewal documentation from the physician medical director or surrogate which verifies personnel competency as defined in 172 NAC 12-004.08 item 10.

12-004.09B Vehicle Records: Emergency medical service must maintain records of vehicle and equipment maintenance and repair for not less than five years.

12-004.09C Patient Care Records: Emergency medical services must complete a patient care record for each incident that the service makes.¹

12-004.09C1 The following information must be recorded for each patient incident as applicable:

1. The name, age, and sex of the patient(s);
2. The address or location from which the patient(s) is taken;
3. The date of the incident;
4. The time of dispatch and the time the ambulance is en route to the incident;
5. The time of arrival at the scene;
6. A record of the chief complaint of the patient and/or the signs and symptoms of the patient;
7. A record of the patient(s) vital signs and the times at which these were noted;

¹ The Department will make available a data software system that will meet the patient record keeping requirements of these regulations.

8. A brief patient history;
9. A description of the treatment provided and equipment used;
10. A record of time, dosage, and route of any medications;
11. A record of time, rate, type, and delivery location of intravenous fluids administered;
12. A record of the time of each electrotherapy attempt and the results of each administration;
13. The name of the receiving facility or location;
14. The name or code number of the individual providing the primary care for the patient;
15. A record of any care provided to the patient prior to the arrival of the out of hospital personnel;
16. Location type;
17. Time unit left scene;
18. Time arrival at destination;
19. Time back in service;
20. Race/ethnicity of the patient;
21. Destination determination;
22. No patient treatment/no patient transportation;
23. Factors affecting emergency medical service delivery;
24. Time CPR discontinued in the field;
25. Adult/pediatric Glasgow Coma Score;
26. Trauma score;
27. The name of the incident commander responsible for all incident activities; and
28. Reading and unit for each use of the glucose monitoring device.

12-004.09C2 A record of dry runs, refused transportation, and stand by services must be maintained. If an emergency medical service performs no incidents during any month, that fact must be reported to the Department at the end of the month.

12-004.09C3 Two years from the effective date of these regulations, all patient care and incident information records must be:

1. Maintained and preserved, in electronic form, for a period of at least five years following each incident or in the case of minors, the records must be kept until three years after the age of majority has been attained.
2. Compliant with the highest standard as certified by the National Emergency Medical Services Information System (NEMESIS);
3. Sent to the Department within 72 hours after the incident, for inspection and use for data collection and research;
4. Submitted by electronic media. This requirement does not supersede any medical or legal requirements for maintenance of patient records; and
5. Compliant with the current version of the Nebraska Emergency Medical Services Data Dictionary.

Compliance information can be found at the National EMS Information Systems Technical Assistance Centers' website – <http://www.nemsis.org>. Information about the Nebraska Data Dictionary can be found at <http://www.dhhs.ne.gov/ems/emsindex.htm> see Patient Care Documents and then Nebraska EMS Data Dictionary

12-004.09C4 Full and complete use of the current Nebraska Emergency Medical Services Data Software System constitutes, and is evidence of, compliance with the record keeping and reporting requirements pursuant to 172 NAC 12-004.09C3.

12-004.09C5 If an emergency medical service chooses not to use the Nebraska Emergency Medical Services Data Software System, the patient care and incident information must;

1. Be in the form of a digital file, readable and manipulable by computer; and,
2. Be in a format that is compatible with the data import requirements of the current Nebraska Emergency Medical Services data software system.

12-004.09C6 No patient data received or recorded by an emergency medical service or an out-of-hospital emergency care provider shall be divulged, made public, or released by an emergency medical service or an out-of-hospital emergency care provider, except that patient data may be released for purposes of treatment, payment and other health care operation as defined and permitted under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2007, or as otherwise permitted by law. Such data shall be provided to the department for public health purposes pursuant to rules and regulations of the department. For purposes of this subpart, patient data means any data received or recorded as part of the records maintenance requirements of the Emergency Medical Services Practice Act. When a patient is transferred to a health care facility or another emergency medical service, all available patient care data must be given to the receiving health care facility or emergency medical service.

12-004.09C7 Confidentiality: Medical records must be kept confidential, available only for use by authorized persons or as otherwise permitted by law. Records must be available for examination by authorized representatives of the Department.

12-004.09C8 Destruction: Medical records may be destroyed only when they are in excess of the retention requirements specified in 172 NAC 12-004.09C3 item 1. In order to ensure the patient's right of confidentiality, medical records must be destroyed or disposed of by shredding, incineration, electronic deletion, or another equally effective protective measure.

12-004.09C9 Closing of Service: In cases in which a service ceases operation, all medical records of patients that have not met the record retention timeline must be stored or relinquished to the patient or the patient's authorized representative. When a service closes, the Department must be notified as to where the records are stored, if the records were relinquished to patients or destroyed. If records are stored, the Department must be notified of the storage address and name and telephone number of the person who has access to the records.

12-004.10 Practices and Procedure Standards: Emergency medical service responsibilities include;

1. Each emergency medical service must have a written back-up response plan in the event of their inability to respond to requests for their services. The back-up response plan must:
 - a. List how many times the call activation mode is sounded and the time period between each call if there is no response;
 - b. List the back-up service that must be called no more than ten minutes after the original call activation;
 - c. Be approved by the physician medical director(s) of the initial service and the back-up service.
 - d. Be sent to the dispatching agency.
2. An emergency medical service that anticipates the use of emergency medical responders to transport patient(s) in the event an emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate or paramedic fails to respond to an emergency call must have:
 - a. Prior written approval of the physician medical director to allow emergency medical responders to transport;
 - b. Physician medical director approval of those practices and procedures defined in 172 NAC 11.009.01 that the emergency medical responder may perform;
 - c. A recruitment and retention plan that includes:
 - (1) A policy prohibiting discrimination based on race, color, religion, gender, or national origin;
 - (2) A budget for the recruitment and retention plan;
 - (3) Leadership training;
 - (4) Steps for recruitment of new members or employees; and
 - (5) Steps for retention of current members or employees
 - d. A staffing schedule that:
 - (1) Lists dates and time periods when each individual member will be on call;
 - (2) Lists of individuals and their levels of licensure when each member/employee will be on call;
 - (3) Is updated at least monthly; and
 - (4) Identifies time periods where emergency medical technicians, advanced emergency medical technicians, emergency medical technician-intermediates or paramedics are unavailable and the automatic aid plan to be followed.
 - e. Outlines an automatic aid plan which includes:

- (1) Intercepting with a back-up licensed service to allow patient care to be transferred to an emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate or paramedic;
 - (2) Dispatching of the licensed service and the back-up licensed service at the same time without a requirement for a verbal request from the initial licensed service;
 - (3) Contacting the dispatch center to request the backup service when a scheduled emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate or paramedic fails to respond. In this event this request will take place within ten minutes of the initial notification;
 - (4) Direction on how to cancel the back-up licensed service in the event an emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate or paramedic does respond;
 - (5) Lists the following:
 - (a) The names of the service, the backup service and the dispatching agency;
 - (b) The procedure for notifying the dispatch agency; and
 - (c) The names of the emergency medical service members responsible for notifying the dispatch center that they are following the automatic aid plan.
 - (6) Officer signatures of the licensed service and the backup licensed service agreeing to the automatic aid plan; and
 - (7) Acknowledgment of receipt of the plan by the dispatching agency.
3. Each emergency medical service that utilizes the use of emergency medical responders to transport patient(s) in the event an emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate or paramedic fails to respond to an emergency call must submit within 30 days a report for each event to the Department. The report must include:
- a. The name of the service;
 - b. The name of the back-up service;
 - c. The names of all the members or employees that responded to the event;
 - d. The date and time of the event;
 - e. The patient condition and care provided;
 - f. The actions taken to notify an emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate or paramedic who indicated availability on the staffing schedule but did not respond when this event occurred;
 - g. Reason(s) an emergency medical technician, advanced emergency medical technician, emergency medical technician-intermediate or paramedic where unavailable to respond or be placed on the staffing schedule to respond; and
 - h. An attestation that the emergency medical service has complied with and will make available upon request of the Board the items defined in 172 NAC 12-004.10 item 2 a through e and the records verifying that the emergency medical responder(s) in attendance at the incident have completed the appropriate training as defined in 172 NAC 11-009.01 item 3.

The regulation defined in 172 NAC 12-004.10 does not prevent the emergency medical service from responding to the scene of an emergency with an emergency response vehicle staffed by an emergency medical responder; however the emergency medical responder cannot initiate transport unless the requirements of 172 NAC 11-009.01C AND 172 NAC 12-004.10 are met.

12-004.11 Licensure Levels That Became Null and Void: Effective March 7, 1999 licensure levels of EMT-A/D, EMT-A/M, EMT-IV, EMT-D and first responder services became null and void. Services with any one or more of these licenses may continue to provide these levels of care with approval of their physician medical director and written protocols directing the provision of these procedures.

12-005 COMPLIANCE INSPECTIONS: Each emergency medical service has the responsibility to be in compliance, and to remain in compliance, with the regulations set out in this chapter.

12-005.01 Initial Inspection: The Department will conduct an initial inspection of an entity seeking to provide emergency medical services within 45 days of receipt of a completed application and prior to the service commencing operations.

12-005.01A The criteria for successful completion of an initial inspection are set forth below:

1. The Department will issue a rating of "Pass/Fail" on an inspection.
2. A rating of "Pass" will be issued when the applicant complies with all of the requirements of 172 NAC 12-004. The applicant will be notified on-site of the outcome of the inspection at the conclusion of the inspection.
3. When a "Pass" rating is received the Department will issue an emergency medical service license.
4. A rating of "Fail" will be issued when the applicant fails to comply with all of the requirements for an emergency medical services license.
5. The Department will conduct a re-inspection within 90 days after the failed inspection.
6. When an applicant receives a "Pass" rating at the time of the re-inspection, the Department will issue an emergency medical service license if all other licensure requirements are met.
7. When an applicant receives a "Fail" rating at the time of the re-inspection, the Department will deny an emergency medical service license.

12-005.02 Continued Compliance Inspections

12-005.02A Self Inspection: An emergency medical service must ensure that it remains in compliance with the requirements as specified in 172 NAC 12-004. This assurance shall be accomplished by a self-inspection and documented by the submission of an Emergency Medical Service Quality Assurance Report.

12-005.02A1 The Emergency Medical Service Quality Assurance Report:

1. Must be submitted prior to the service's license expiration date;
2. Is not required to be completed by an emergency medical service that holds a current certification from the Commission on Accreditation of Medical Transport Systems (CAMTS); and
3. Will fulfill the self-inspection requirement if the service is in full compliance.

12-005.02A2 If the Department determines that the emergency medical service is not in compliance after the emergency medical service submits the Emergency Medical Service Quality Assurance Report, the emergency medical service will be subject to an onsite inspection.

12-005.02A3 Any emergency medical service that fails to submit an Emergency Medical Service Quality Assurance Report will be subject to an onsite inspection.

12-005.02B Onsite Inspections: After the effective date of these regulations, all emergency medical services are subject to an onsite inspection to determine whether an emergency medical service complies with the requirements of 172 NAC 12-004. Any emergency medical service that holds a current certificate from the Commission on Accreditation of Medical Transport Systems (CAMTS) will meet the onsite inspection requirements.

12-005.02B1 Onsite inspections may be conducted:

1. When the Department determines, based upon the criteria specified in 172 NAC 12-005.02A, that the Emergency Medical Service Quality Assurance Report does not fulfill the onsite inspection requirement, a Department inspector must conduct an onsite inspection to determine compliance with the Emergency Medical Services Act and these regulations; or
2. When the Department/Board selects services for inspection;
 - a. The Board may biennially select, in a random manner, a sample of emergency medical services;
 - b. Each emergency medical service selected for onsite inspection must produce documentation that proves that it meets the standards specified in 172 NAC 12-004;
 - c. The Department will notify each selected emergency medical service by mail. Failure to notify the Department of a current mailing address will not absolve the emergency medical service from the requirement of an onsite inspection;
 - d. Within 30 days, each selected emergency medical service will be contacted by a Department inspector to set up an onsite inspection; and
 - e. The results of the inspection will be determined as outlined in 172 NAC 12-005.02C; or

3. For cause: The Department may inspect an emergency medical service to determine violations when any one or more of the following conditions or circumstances occur:
 - a. A complaint alleging violation of the Emergency Medical Services Practice Act or these regulations;
 - b. A complaint that raises concern about patient care, maintenance, operation, or management of the service;
 - c. Change of licensure level, change of transporting level, or when transferring control;
 - d. Failure to submit an Emergency Medical Service quality Assurance Report within 30 days of the due date;
 - e. Submitting incomplete or questionable answers on the Emergency Medical Service Quality Assurance Report.

12-005.02C Results of Onsite or Self Inspections

12-005.02C1 When the Department finds that the emergency medical service fully complies with the requirements of 172 NAC 12-004, the Department will notify the emergency medical service of its compliance within 30 days after the self or onsite inspection.

12-005.02C2 When the Department finds that the licensee does not fully comply with the requirements of 172 NAC 12-004, but the nature of the violations do not create an imminent danger of death or serious physical harm to the patients of the emergency medical service, the Department may send to the emergency medical service a letter requesting that the violation(s) be corrected. The letter must include:

1. A description of each violation;
2. A request that the emergency medical service correct the violation(s) within 20 working days;
3. A request that the emergency medical service send a letter to the Department outlining how each deficiency will be corrected; and
4. A notice that the Department may take further disciplinary action if the violation(s) are not corrected.

12-005.02C3 The letter submitted by an emergency medical service must indicate any steps that have been or will be taken to correct each violation and the estimated time when each correction will be completed. Based on the letter, the Department will take one of the following actions:

1. If the emergency medical service submits and implements a letter that indicates a good faith effort to correct the violations, the Department will notify the licensee of the acceptance of the letter and may re-inspect; or
2. If the emergency medical service fails to submit and implement a letter that indicates a good faith effort to correct the violations, the Department may initiate disciplinary action against the emergency medical service license.

12-006 REQUIREMENTS FOR CHANGING PHYSICIAN MEDICAL DIRECTOR, TRANSFERRING AND CLOSING A LICENSED EMERGENCY MEDICAL SERVICE: The following procedures must be followed by an emergency medical service who wishes to change physician medical directors, transfer control or close its emergency medical service:

1. A change in the physician medical director for an emergency medical service requires the submission of a letter to the Department from the emergency medical service and new physician medical director which delineates the following:
 - a. Termination date of the current physician medical director;
 - b. Name of the new physician medical director;
 - c. Effective date of the appointment of the new physician medical director;
 - d. A statement by the new physician medical director that s/he has reviewed and signed the emergency medical service's protocols and either agrees with them or has revised them;
 - e. A statement from the new physician medical director that states that the emergency medical service will operate in accordance with the current statutes and regulations; and
 - f. The letter must be signed and dated by the new physician medical director and the service's officer.
2. If an emergency medical service wants to transfer control of its service, the new controlling agency must apply for licensure and must comply with 172 NAC 12-003 and 12-004.
3. If an emergency medical service wants to terminate its license, it must notify the Department in advance of the termination, when possible. All requirements for operation must be maintained until the emergency medical service is officially terminated.
4. The person that has operated the emergency medical service will be responsible for the retention and preservation of the appropriate records pursuant to 172 NAC 12-004.09C9.

12-007 RENEWAL OF AN EMERGENCY MEDICAL SERVICE CREDENTIAL: To renew an Emergency Medical Service license, the licensed service must request renewal and complete the renewal requirements specified in 172 NAC 12-007.02. All Emergency Medical Service licenses issued by the department will expire on December 31 of every even-numbered year.

12.007.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify the licensed service at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Information on how to request renewal; and
5. An Emergency Medical Service Quality Assurance Report Form.

12-007.02 Renewal Procedures: To request renewal of a service license, a service must submit by mail or in person, the following:

1. Completed Application;
 - a. The full name and address of the service;
 - b. The full name and address of the owner of the service;
 - c. The name(s) of each person in control of the service;
 - d. The Social Security Number of the service if the applicant is a sole proprietorship;
 - e. Telephone number including area code (optional);
 - f. E-Mail Address (optional);
 - g. Fax Number (optional);
 - h. The name of the physician medical director;
 - i. The address of the physician medical director;
 - j. Attestation by the applicant that:
 - (1) S/he has read the application or have had the application read to him/her; and
 - (2) All Statements on the application are true and complete;
 - (3) If the applicant is a sole proprietorship, that s/he is;
 - (4) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i.) A citizen of the United States;
 - (ii.) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii.) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
 - k. Signature of:
 - (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (2) Two of its members if the applicant is a limited liability company that has more than one member;
 - (3) Two of its officers if the applicant is a corporation;
 - (4) The head of the governmental unit having jurisdiction over the business if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in items (1) through (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official; and
2. The following documentation:
 - a. A current roster of members/employees listing level of licensure; and
 - b. A copy of emergency medical service controlled substance registration if an advanced emergency medical service; and
 - c. An Emergency Medical Service Quality Assurance Report; or
 - d. Proof of current accreditation from the Commission on Accreditation of Medical Transportation Systems.

12-007.03 Expiration of an Emergency Medical Service License: A service credential will expire if a service fails to:

1. Meet the requirements for renewal on or before the date of expiration of the service credential; and/or
2. Renew the service credential.

12-007.03A Right to Operate: When an emergency medical service credential expires, the right to operate the service terminates without further notice of hearing.

12-007.03B Re-Application for an Emergency Medical Service License: When a service fails to renew its credential by the expiration date, a service must re-apply to the Department.

12-007.04 Address Information: The credentialed service must notify the Department of any change in name or address.

12-008 DISCIPLINARY ACTION: A license to operate as an emergency medical service may have disciplinary actions taken against it in accordance with 172 NAC 12-008.03 on any of the following grounds:

1. Violation of the Uniform Credentialing Act or the rules and regulations adopted and promulgated under the act relating to the applicable business;
2. Committing or permitting, aiding, or abetting the commission of any unlawful act;
3. Conduct or practices detrimental to the health or safety of an individual served or employed by the business;
4. Failure to allow an agent or employee of the Department access to the business for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department;
5. Discrimination or retaliation against an individual served or employed by the business that has submitted a complaint or information to the Department or is perceived to have submitted a complaint or information to the Department.
6. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license;
7. Unprofessional conduct which terms include all acts specified in Neb. Rev. Stat. § 38-179 and means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:
 - a. Competence: An Emergency Medical Service must not provide services for which the service has not been licensed or individuals licensed or authorized by the physician medical director. Unprofessional conduct while providing services as an Emergency Medical Service will include but is not limited to:

- (1) Encouraging or promoting emergency medical care by untrained or unqualified persons;
 - (2) Failure to comply with emergency vehicle operating requirements in accordance with Neb. Rev. Stat. § 60-6,114; and
 - (3) Failure to comply with the directions of the physician medical director.
- b. Confidentiality: An Emergency Medical Service must hold in confidence information obtained from a patient, except in those unusual circumstances in which to do would result in clear danger to the person or to others, or where otherwise required by law. Failure to do so will constitute unprofessional conduct;
 - c. Failure to discipline out-of-hospital emergency care providers who are volunteering for, or employed by the emergency medical service for the grounds outlined under 172 NAC 11-010;
 - d. Failure to decline to carry out emergency medical care services that have been requested when the services are known to be contraindicated or unjustified;
 - e. Failure to decline to carry out procedures that have been requested when the services are known to be outside of the emergency medical services licensure level;
 - f. Falsification or unauthorized destruction of patient records;
 - g. Delegating to unqualified personnel those patient related services when the clinical skills and expertise of an out-of-hospital emergency care provider is required;
 - h. Failure of an emergency medical service to appropriately account for shortages or overages of controlled substances;
 - i. Failure to discipline out-of-hospital emergency care providers who have engaged in sexual harassment of patients or co-workers;
 - j. Violating an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
 - k. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
 - l. Practicing as an emergency medical service in this state without a current Nebraska license;
 - m. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
 - n. Failure to permit an inspection for the purposes outlined in 172 NAC 12-005; and
 - o. Failure of a licensee, who is subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents.

12-008.01 Temporary Suspension or Limitation

12-008.081A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 12-008 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or

limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

12-008.01B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

12-008.01C A temporary suspension or temporary limitation of a credential under 172 NAC 12-008.01 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

12-008.02 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify the credential holders of any disciplinary action to be imposed and the time and place of the hearing.

12-008.03 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

12-008.03A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 12-008, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

12-009 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or a form constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. Legal name of service;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation:
 - a. (Insert the following statement) "I attest that all the information on this offer is true and complete"; and
 - b. Signature of:
 - (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member; or
 - (2) Two of its members if the applicant is a limited liability company that has more than one member; or
 - (3) Two of its officers if the applicant is a corporation; or
 - (4) The head of the governmental unit having jurisdiction over the emergency medical service if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in 172 NAC 12-009 item 3b (1) to (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official;
 - c. Date.

12-009.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in incident to a notice of disciplinary action.

12-009.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

12-009.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

12-009.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

12-009.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

12-009.06 Re-application following voluntary surrender is set out in 172 NAC 12-010.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in incident to a notice of disciplinary action.

12-010 RE-APPLICATION: This section applies to business previously credentialed in Nebraska who seeks the authority to return to practice in Nebraska with a valid Nebraska credential.

1. A business whose credential has expired, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons may apply at any time to the Department for and obtain another credential as specified in 172 NAC 12-003.
2. A business whose credential has been voluntarily surrendered for a definite period may apply to the Department for and obtain another credential as specified in 172 NAC 12-003 after the period of time has elapsed.
3. A business whose credential has been revoked may apply to the Department for and obtain another credential as specified in 172 NAC 12-003 only after a period of two years has elapsed from the date of revocation.
4. A business whose credential has been permanently voluntarily surrendered may not re-apply.

12-011 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

12-011.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

12-011.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.

EFFECTIVE DATE
December 15, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

12-011.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

12-012 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

THESE AMENDED RULES AND REGULATIONS: Replace Title 172 Chapter 12, Regulations Governing the Practice of Emergency Medical Services effective December 27, 2005 and repeal Part 12-007.02A – 12-007.02H effective October 4, 2006.

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 13 EMERGENCY MEDICAL SERVICES TRAINING AGENCIES

13-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Emergency Medical Services (EMS) Training Agencies, Emergency Medical Services Instructors, Cardiopulmonary Resuscitation Organizations, and Distributive Learning Courses under Neb. Rev. Stat. §§ 38-1201 to 38-1237 and the Uniform Credentialing Act (UCA).

13-002 DEFINITIONS:

Accredited means obtained accreditation from an accrediting body recognized by the United States Department of Education.

Act means Neb. Rev. Stat. §§ 38-1201 to 38-1237 known as the Emergency Medical Services Practices Act.

Active Addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Additional Skills Course means coursework that relates to the instruction of additional skills for Emergency Medical Responders and Emergency Medical Technicians that are listed in 172 NAC 11-009.01B and 11-009.02B, respectively.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved Distributive Learning Organization means an educational institution, a national, state, regional, or local agency or association, a non-profit corporation, a for-profit corporation, a hospital, or any combination of the above who offer a distributive learning program or programs approved by the Department upon recommendation of the Board.

Approved Emergency Medical Services Training Agency means a person which is approved to conduct training by the Department upon recommendation of the Board.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Emergency Medical Services.

Care and Treatment Standards means the more current standards established by a nationally recognized organization that, through research, accepted practice, and/or patient experience, issues guidelines for the care and treatment of patients in the emergency and/or out of hospital environment.

Business means a business providing the service of body art, cosmetology, emergency medical services, esthetics, funeral directing and embalming, massage therapy, or nail technology.

Clinical Training means instruction or training in a supervised practice of emergency medical skills in hospital settings such as critical care units, emergency departments, obstetrical units, or operating rooms or in other medical settings such as a clinic or office of an individual licensed to practice medicine and surgery.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the

- American Psychiatric Association; or
- b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
 3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
 4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
 5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
 6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
 7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Distributive Learning means an instructional model that allows instructor, students, and content to be located in different non-centralized locations so that instruction and content occur independent of time and place and may be offered in one or more of the following strategies: print, internet, videotape, CD-ROM/DVD, satellite and television.

Distributive Learning Program means a course, class, and or printed material, offered for credit toward out-of-hospital emergency care provider license renewal, presented in the strategies consistent with the Distributive Learning definition, covers the subject matter of the EMS courses and follows the current care and treatment standards. A Distributive Learning Program is provided by an approved Distributive Learning Organization pursuant to 172 NAC 13-108.

EMS Courses means any one or more of the following courses as defined in Neb. Rev. Stat. § 38-1218 taught by an approved training agency as defined in 172 NAC 13-002.

1. Emergency Medical Responder Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Responder Additional Skills Course Material.
2. Emergency Medical Responder Additional Skills Course means a course of instruction for licensed Emergency Medical Responders that meets the United States Department of Transportation, National Highway Traffic Safety Administration , National Emergency Medical Services Educational Standards for the Emergency Medical Technician level that relates to the topics of:
 - a. Medication administration of aspirin and epinephrine by auto injector,
 - b. Application of spinal and extremity immobilization devices,
 - c. Patient transport devices, and
 - d. Patient transport.

These topics may be instructed independently, grouped into two or three topics, or consolidated into one course. This course may only be taught to individuals licensed as emergency medical responders.

3. Emergency Medical Technician Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Technician and will include documentation of five patient contacts that must be completed during at least ten hours of field experience. If the student cannot meet the five patient contacts during the field experience because of a low number of emergency/medical requests, these contacts may be obtained in a hospital emergency department, clinic, or physicians' office. This course will not include the Emergency Medical Technician Additional Skills Course.
4. Emergency Medical Technician Additional Skills Course means a course of instruction for licensed Emergency Medical Technician that meets the United States Department of Transportation, National Emergency Medical Services Educational Standards for the Advanced Emergency Medical Technician level as they relate to the topics of:
 - a. Non-visualized advanced airway management,
 - b. Impedance threshold device,
 - c. Intravenous fluid monitoring only,
 - d. Peripheral intravenous access and monitoring intravenous fluids,
 - e. Medication administration of albuterol by nebulizer and epinephrine by auto injector; and/or
 - f. Assessment utilizing a glucometer.

These topics may be instructed independently, grouped into two, three, or four topics, or consolidated into one course. This course may only be taught to individuals licensed as emergency medical technicians.

5. Pre-Hospital Emergency Care for Nurses Courses means a course of instruction to train Licensed Registered Nurses and Licensed Practical Nurses to become emergency medical technicians that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Technician specific to the educational material and psychomotor skills not taught in the nurses training.
6. Advanced Emergency Medical Technician Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Advanced Emergency Medical Technician. Included in this course is a foundational depth and foundational breadth of morphine sulfate and the antagonist agent used in overdose and the clinical behaviors/judgment to safely and effectively administer morphine sulfate. This course will include documentation of at least 25 patient contacts, at least 24 intravenous starts, and placement of at least 12 non-visualized airways that must be completed during a minimum of 150 hours of field experience. These requirements may also be completed in a hospital emergency department, clinic, or physician's office. If the student cannot meet the required patient contacts during the field/clinical experience because of a low number of emergency/medical requests, these patient contacts may be obtained in a classroom setting using manikins.
7. Paramedic Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency

Medical Services Education Standards for Paramedic. Included in this course is a complex depth and comprehensive breadth of;

- a. Pharmacologic agents use to assist or to facilitate advanced airway management; and
 - b. Airway anatomy as it relates to surgical cricothyrotomy and the clinical behaviors/judgment to safely and effectively perform the psychomotor skills of pharmacologically assisted endotracheal intubation, rapid sequence endotracheal intubation, and surgical cricothyrotomy.
8. Emergency Medical Responder Refresher Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education for Emergency Medical Responder and covers the following content areas;
- a. Preparatory – at least 1 hour
 - b. Airway – at least 2 hours
 - c. Patient Assessment – at least 2 hours
 - d. Circulation – at least 3 hours
 - e. Illness and Injury – at least 3 hours
 - f. Childbirth and Children – at least 1 hours

At the end of each course will be an examination that includes:

- a. Fifty written questions that will cover all content areas; and
 - b. A practical skills examination covering the emergency medical responder licensing examination skills.
9. Emergency Medical Technician Refresher Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Technician and covers the following areas:
- a. Preparatory – at least 1 hour
 - b. Airway – at least 2 hours
 - c. Obstetrics, Infants, Children – at least 2 hours
 - d. Patient Assessment – at least 3 hours
 - e. Medical Behavior – at least 4 hours
 - f. Trauma – at least 4 hours
 - g. Electives – at least 8 hours.

At the end of each course will be an examination that includes:

- a. One hundred written questions that will cover all content areas; and
 - b. A practical skills examination covering the emergency medical technician licensing examination skills.
10. Advanced Emergency Medical Technician Refresher Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Advanced Emergency Medical Technician and covers the following content areas:
- a. Airway, Breathing, and Cardiology – at least 12 hours
 - b. Medical Emergencies – at least 6 hours
 - c. Trauma – at least 5 hours
 - d. Obstetrics and Pediatrics – at least 12 hours

- e. Operational Tasks – at least 1 hour

At the end of each course will be an examination that includes:

- a. One hundred written questions that will cover all content areas; and
- b. A practical skills examination covering the advanced emergency medical technician licensing examination skills.

11. Paramedic Refresher Course means a course of instruction that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Paramedic and covers the following content areas:
- a. Airway, Breathing , and Cardiology – at least 16 hours
 - b. Medical Emergencies – at least 8 hours
 - c. Trauma – at least 6 hours
 - d. Obstetrics and Pediatrics – at least 16 hours
 - e. Operational Tasks – at least 2 hours

At the end of each course will be an examination that includes:

- a. One hundred written questions that will cover all content areas; and
- b. A practical skills examination covering the paramedic licensing examination skills.

12. Emergency Medical Responder to Emergency Medical Technician Bridge Course means a course of instruction to train licensed Emergency Medical Responders to become Emergency Medical Technicians that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Emergency Medical Technician specific to the educational material and psychomotor skills not taught in the Emergency Medical Responder Course.

13. Emergency Medical Technician to Advanced Emergency Medical Technician Bridge Course means a course of instruction to train licensed Emergency Medical Technicians to become Advanced Emergency Medical Technicians that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Advanced Emergency Medical Technician specific to the educational material and psychomotor skills not taught in the Emergency Medical Technician Course.

14. Advanced Emergency Medical Technician to Paramedic Bridge Course means a course of instruction to train licensed Advanced Emergency Medical Technicians to become Paramedics that meets the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards for Paramedic specific to the educational material and psychomotor skills not taught in the Advanced Emergency Medical Technician Course.

15. Nebraska Emergency Medical Service Instructor Course means a course of instruction developed by the Department to train licensed out-of-hospital emergency care providers to become licensed Emergency Medical Service Instructors based on the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Instructor Guidelines.

Emergency Medical Responder means an individual who has a current license to practice as an emergency medical responder.

Emergency Medical Service (EMS) means the organization responding to a perceived individual need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury and which is licensed either as a basic life support service or an advanced life support service.

Emergency Medical Service (EMS) Instructor means an individual who has a current license to practice as an EMS instructor.

Field Experience means a period of direct supervised experience when a student is mentored by a field supervisor while operating with an emergency medical service that responds to an emergency/medical request and proceeds from observation to providing care commensurate with the student's training.

Field Supervision means a period of direct supervision or indirect supervision of a temporary licensee by a field supervisor.

Field Supervisor means an individual who is a licensed out-of-hospital emergency care provider, with an unencumbered license and is the same or higher level of out-of-hospital emergency care provider as the temporary licensee or same or higher level as the student's course of study.

Higher level of out-of-hospital emergency care provider means an individual who is licensed as an out-of-hospital emergency care provider and who may provide additional care commensurate with his/her level of training.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensure Examination means the cognitive and practical skills competency examination developed by the National Registry of Emergency Medical Technicians for emergency medical technicians, emergency medical responders, advanced emergency medical responders, emergency medical technician-intermediates, and paramedics.

Military Service means full-time duty in the active military service of the United States, or a National Guard call to active service for more than 30 consecutive days or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a service member is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 13.

National Registry of Emergency Medical Technicians (NREMT) means the organization that develops minimum competency licensing examinations for EMS courses to be used as a requirement for licensure of Emergency Medical Responders, Emergency Medical Technicians, Advanced Emergency Medical Technicians and Paramedics.

Non-Visualized Advanced Airway Management means the insertion without visualization of airway anatomical structures and the removal of airway adjuncts not intended for placement into the trachea as the sole means to provide for a patient airway.

Official means issued by and under the original seal of the issuing agency.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Person means an individual, firm, partnership, limited liability company, corporation, company, association, or joint-stock company or association or group of individuals acting together for a common purpose and includes the State of Nebraska and any agency or political subdivision of the state.

Primary Instructor means a licensed EMS instructor who must attend a majority of the class sessions to assure course continuity and identifies that students have the cognitive, affective and psychomotor skills necessary to function at the level being taught.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Training Agency Medical Director means an individual licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to the Medicine and Surgery Practice Act and the Uniform Credentialing Act, and who is responsible for the medical supervision of the curriculum of an approved training agency and verification of the skill proficiency of the students.

13-003 REQUIREMENTS FOR APPROVAL AS AN EMERGENCY MEDICAL SERVICE TRAINING AGENCY: Any person or agency who intends to provide training, utilizing EMS courses as defined in 172 NAC 13-002 to prepare individuals for licensure as out-of-hospital emergency care providers must be approved by the Department.

13-003.01 Qualifications: An applicant applying to become an approved emergency medical service training agency must meet the following qualifications:

1. Be an accredited community college, college, university, or a school of nursing in this state that awards an academic degree to its graduates or a person as defined in 172 NAC 13-002;

By January 1, 2013, an approved emergency medical services training agency that provides training for paramedics must be accredited by the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions (CoAEMSP).

2. Have a written agreement with a qualified physician to serve as the training agency medical director;

3. Have written agreements with hospital(s) for clinical training of students for the level of training being conducted in accordance with the EMS courses as defined in 172 NAC 13-002;
4. Have written agreements with licensed emergency medical services for field experience for the level of training being conducted in accordance with the EMS courses as defined in 172 NAC 13-002;
5. Meet the standards for operating as defined in 172 NAC 13-004;
6. Admit individuals to EMS courses who meet the prerequisite requirements as identified in the EMS courses;
7. Utilize instructors who hold a certificate/license in or above the discipline that they are teaching or have demonstrated expertise in the subject matter being taught;
8. Teach EMS courses as defined in 172 NAC 13-002;
9. Provide adequate facilities, equipment, apparatus, supplies and staffing as required by the EMS course for each respective course as defined in 172 NAC 13-002;
10. Comply with local fire, building, health, and safety requirements, and be able to accommodate the educational requirement of the EMS courses being taught;
11. The owner(s) must not have any felony convictions if they hold any financial interest of 25% or more of the training agency;
12. Publish a catalog which includes at least the following information:
 - a. The full name and address of the school;
 - b. Names of owners and officers, including any governing boards;
 - c. A description of each authorized educational service offered, including courses or programs offered, tuition, fees, and length of courses.
 - d. Enrollment procedures and entrance requirements, including late enrollment if permitted;
 - e. A description of the training agencies placement assistance. If no assistance is offered, the school must state this fact;
 - f. Attendance policy including minimum attendance requirements;
 - g. The policy concerning satisfactory progress will include:
 - (1) How student progress is measured and evaluated, including an explanation of any system of grading used;
 - (2) The conditions under which the student may be readmitted if terminated for unsatisfactory progress;
 - (3) Explanation of any probation policy; and
 - (4) A description of the system used to make progress reports to students;
 - h. An explanation of the refund policy which also includes the training agencies method of determining the official date of termination;
 - i. A policy that addresses student harassment and training agency action if such harassment takes place.

13. Pass an on-site inspection; and
14. Hold a surety bond in the penal sum of \$20,000. Applicants who are accredited as defined in 172 NAC 13-002 and municipalities that are self-insured are exempt from the surety bond requirement.

13-003.02 Application: To apply for a credential to practice as an Emergency Medical Service Training Agency, and agency must submit a complete application to the Department. A complete application includes all required documentation and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. The full name and address of the business;
 - b. The full name and address of the owner of the business;
 - c. The name of each person in control of the business;
 - d. The Social Security Number of the business if the applicant is a sole proprietorship;
 - e. Telephone number including area code (optional);
 - f. E-Mail Address optional);
 - g. Fax Number (optional);
 - h. Name of the training agency medical director;
 - i. License number of the training agency medical director;
 - j. Mailing address of the training agency medical director;
 - k. Telephone number of the training agency medical director;
 - l. Signature of the applicant. If the applicant is a business, the application must be signed by:
 - (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (2) Two of its members if the applicant is a limited liability company that has more than one member;
 - (3) Two of its officers if the applicant is a corporation;
 - (4) The head of the governmental unit having jurisdiction over the business if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in 172 NAC 13-003.02 item 1l(1) to (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official;
 - m. Attestation by the applicant:
 - (1) That the business has not operated in Nebraska before submitting the application; or
 - (2) To the actual number of days of operation in Nebraska before submitting the application;
 - (3) That any owner who holds financial interest of 25% or more has not had a felony conviction;
 - (4) That all statements on the application are true and complete; and
 - (5) If the applicant is a sole proprietorship, that s/he is:
 - (a) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:

- (i.) A citizen of the United States;
 - (ii.) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii.) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application.
- a. A copy of the training agency's accreditation certificate as defined in 172 NAC 13-003.01, item 1, if applicable;
 - b. A copy of the written agreement with the physician medical director;
 - c. A copy of the written agreement with the hospital(s), clinic(s), and/or physician office(s) that will provide clinical training;
 - d. A copy of the written agreement with the licensed emergency medical service that will provide field experience as applicable;
 - e. A listing of the names of persons who have financial interest in the school as defined in 172 NAC 13-003.01 item 11;
 - f. A copy of the training agencies catalogue as defined in 172 NAC 13-003.01, item 12;
 - g. If applicable, file with the Department a good and sufficient surety bond in the penal sum of \$20,000. The bond must be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond must be conditioned to provide indemnification for any student or enrollee or his/her parent or guardian determined by the Department to have suffered loss or damage as a result of any act or practice which is a violation of these regulations by the school and that the surety also must pay any final judgment rendered by any court of this state having jurisdiction upon receipt of written notification of the judgment from the Department. Regardless of the number of years that the bond is in force, the aggregate liability of the surety thereon must in no event exceed the penal sum of the bond. The bond must be continuous; and
 - h. A list of names of the primary instructor(s) and their level of licensure.

13-003.03 Department Review:

The Department will:

- 1. Review the application to determine completeness. Applications must be received at least 90 days prior to when the training agency expects to commence training;
- 2. Notify the applicant of the need for additional information/documentation;
- 3. Forward the completed application to the Board for its review; and
- 4. Act within 150 days upon all completed applications.

13-003.04 Board Review:

The Board will:

- 1. Schedule an on-site inspection within 15 working days after it receives the application. The on-site inspection will be completed to determine if the training agency meets the standards as set out in 172 NAC 13-003.01 AND 13-004; and
- 2. Make its recommendations for approval or denial of the application at the next scheduled meeting of the Board.

13-003.05 Emergency Medical Service Training Agencies Approved Prior to March 7, 1999: All emergency medical services training agencies, who were approved emergency medical service training agencies prior to March 7, 1999, will continue to be approved at their current level of approval. Approved training agencies that request to change their level of training must reapply and meet the requirements as set out in 172 NAC 13-003.01.

13-003.06 Denial of Initial Approval: If an applicant for an initial approval to operate an emergency medical services training agency does not meet all of the standards as set out in 172 NAC 13-003.01 and 13-004 for the approval or if the applicant is found to have done any of the grounds listed in 172 NAC 13-008, the Department will deny issuance of an approval. To deny an approval, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

13-003.07 Practice Prior to Approval: An emergency medical services training agency who practices prior to issuance of an approval is subject to assessment of an administrative penalty under 172 NAC 13-019 or such other action as provided in the statutes and regulations governing the credential.

13-003.08 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

13-003.09 Address Information: Each credential holder must notify the Department of any change to the address of record.

13-004 STANDARDS FOR OPERATING AS AN APPROVED EMERGENCY MEDICAL SERVICE TRAINING AGENCY: Emergency medical service training agencies must meet the following standards:

13-004.01 All emergency medical services training agencies must meet the standards required by the EMS courses.

13-004.02 Approved emergency medical services training agencies may teach one or more of the EMS courses as defined in 172 NAC 13-002.

13-004.03 Emergency medical services training agencies must use primary instructors for the administration, coordination, and/or teaching of EMS courses as defined in 172 NAC 13-002.

13-004.04 Training agencies must conduct at the end of the course the practical skill component of the licensing examination for students enrolled in the following EMS courses.

1. Emergency Medical Technician course to include, when applicable, advanced airway management, intravenous administration and monitoring skills, and glucose monitoring devices;

2. Pre-Hospital Emergency Care Course for Nurses to include, when applicable, advanced airway management, intravenous administration and monitoring skills, and glucose monitoring devices;
3. Emergency Medical Responder course to include automatic/semi-automatic defibrillator; and
4. Emergency Medical Responder to Emergency Medical Technician-Bridge course to include, when applicable, advanced airway management, intravenous administration and monitoring skills, and glucose monitoring devices.

13-004.05 The practical skill evaluators for the practical skill component of the licensing examinations must meet the requirements as established by the National Registry of Emergency Medical Technicians for the practical skill component of the licensing examination.

13-004.06 Training agencies must provide official verification to individuals who have successfully completed any of the EMS courses. The official verification will include at a minimum the following:

1. Training agency name and location of central or headquarters office;
2. Signature and title or position of a training agency individual attesting to the official verification;
3. Date student completed EMS course;
4. A statement that indicates the student successfully completed the EMS course;
5. Student name including first and last name;
6. Name of EMS course as defined in 172 NAC 13-002 that was successfully completed;
7. Total number of hours that the EMS course provided. In addition, Advanced Emergency Medical Technician and Paramedic courses must show the number of didactic hours and clinical hours;
8. If the Emergency Medical Responder or Emergency Medical Technician Additional Skills course is taught by grouping only two or three skills or teaching a skill independently, the verification must identify the skills taught.

13-004.07 Training agencies must maintain, for a minimum of five years, the following records for EMS courses taught.

1. Student records that include:
 - a. Name and address for each student enrolled in EMS Courses;
 - b. Grades for each written examination;
 - c. Documentation of successful completion of each student's Practical Skill Evaluations, and Advanced Airway Management, Intravenous Monitoring, Automatic/Semi-Automatic Defibrillator, and Glucose Monitoring Devices Practical Skills as defined in 172 NAC 13-004.04; and
 - d. Copies of each student's documentation of entrance requirements to each course including a copy of the individual's CPR certification.
2. Instructor and course records that include:
 - a. Names and qualifications of the primary instructors;
 - b. Names and qualifications of other EMS course instructors;
 - c. Instructor evaluation records completed by students and training agency personnel;

- d. Names and qualifications of the practical skills evaluators for the EMS courses identified in 172 NAC 13-004.04;
- e. Names and qualifications of field internship supervisors; and
- f. Agreements with other entities for use of equipment needed to conduct an EMS course if the equipment is not provided by the training agency.

13-004.08 Conduct at least one EMS course each calendar year.

13-004.09 Obtain at least a 70% pass rate for a period of two consecutive years on the licensing written examination taken by students who successfully completed the emergency medical responder course, emergency medical technician course, the advanced emergency medical technician course, and paramedic course as defined in 172 NAC 13-002 taught by an approved agency.

13-004.10 If a training agency does not annually conduct an EMS course as identified in 172 NAC 13-004.08, it must document the rationale for non-compliance with these regulations.

13-004.11 All approved training agencies must develop and implement a quality assurance program for instruction. The quality assurance program must:

1. Establish and implement policies and procedures for periodic observation of all instructors;
2. Establish and implement a mentoring program for each new EMS instructor. Each new EMS instructor will be assigned a mentor who has a background in the course being taught or in teaching. The assigned mentor will complete an evaluation of his/her assignee at least once prior to renewal of the new instructor's license;
3. Establish and have completed student evaluations during and after each EMS course taught;
4. Establish and implement a remediation plan for all noted instructor deficiencies. Documentation of remediation must be maintained for five years; and
5. Conduct semi-annual meetings with each EMS course instructor for the purpose of discussing training issues and identifying any instruction needs. These meetings may be held face to face or by other means of telecommunication. These meetings must be documented. The documentation must be maintained for five years.

13-005 RESPONSIBILITIES OF EMERGENCY MEDICAL SERVICE TRAINING AGENCY MEDICAL DIRECTORS: The emergency medical service training agency medical director's responsibilities include, but not be limited to, the following:

1. The ultimate medical authority regarding course content, procedures, and protocols;
2. Acting as a liaison between the training agency and the medical community;
3. Reviewing the quality of care rendered by the out-of-hospital emergency care provider student in the field, hospital, clinic, and/or physicians offices;
4. Verifying student competence in the cognitive, affective and psychomotor domains; and
5. Reviewing all examinations.

13-006 REQUIREMENTS FOR CHANGES IN MEDICAL DIRECTOR, TRANSFERRING AND CLOSING AN EMERGENCY MEDICAL SERVICE TRAINING AGENCY: The following procedures must be followed by training agencies who wish to change their medical director, transfer control, or who wish to close their training agency.

13-006.01 A change in the medical director for an emergency medical service training agency requires the submission of a letter from the training agency which delineates the following:

1. Termination date of the current medical director;
2. Name of the new medical director;
3. Effective date of the appointment of the new medical director;
4. A statement from the new medical director that states that the training agency will operate in accordance with the current statutes, and regulations; and
5. The letter must be signed and dated by the new medical director.

13-006.02 If an emergency medical service training agency wants to transfer control of an approved training agency, the applicant must apply for an initial approval as an out-of-hospital emergency medical services training agency as defined in 172 NAC 13-003.

13-006.03 If a training agency wants to terminate its training approval, it must notify the Department at least six months in advance of the termination, when possible, and submits to the Department the plan for completion of the training or transfer of students currently enrolled in the approved training agency and the disposition of records of the approved training agency. All requirements for operation must be maintained until the approved training agency is officially closed.

13-006.04 The approval of the training agency is considered null and void by the Department immediately after the date the last enrolled student completes the EMS course being taken, is transferred to another approved training agency, or voluntarily withdraws from the approved training agency.

13-006.05 The person operating the training agency is responsible for notifying the Department of the method of retention, storage, or transfer of all of the training agency's emergency medical service training records.

13-006.06 Any change of ownership of an emergency medical service training agency requires a new application for approval.

13-007 REVIEW OF APPROVED EMERGENCY MEDICAL SERVICE TRAINING AGENCIES: Emergency medical service training agencies will have an on-site review, conducted by the Department or its designee, at least once every three years. Each review will evaluate compliance with 172 NAC 13-003.01 items 1 – 14 and 13-004.

13-008 GROUNDS ON WHICH THE DEPARTMENT MAY DENY APPROVAL OF AN EMERGENCY MEDICAL SERVICE TRAINING AGENCY

13-008.01 The Department will deny an application for approval when the applicant fails to meet the requirements specified in 172 NAC 13-003.

13-008.02 The Department may deny approval of an emergency medical service training agency for any of the following grounds:

1. Violation of the regulations promulgated thereto governing the approval of emergency medical service training agencies;
2. Acting negligently in performing the authorized services;

3. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure approval as an emergency medical services training program;
4. Permitting, aiding, or abetting the practice or profession or the performance of activities requiring a license or certification by a person not licensed or certified to do so;
5. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such training agency's professional excellence or abilities, in advertisements;
6. Providing EMS courses while the emergency medical service training agencies approval is suspended or in contravention of a limitation placed upon the approval.
7. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for operation of an approved emergency medical service training agency;
8. Operation of the emergency medical service training agency (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, or (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;
9. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
10. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
11. Willful or repeated violations of Neb. Rev. Stat. §§ 38-178 to 38-179 of the Uniform Credentialing Act or the rules and regulations of the Department relating to the training agencies operation of an emergency medical service training agency; and
12. Unprofessional conduct, as defined in Neb. Rev. Stat. § 38-179.

13-009 PROCEDURE FOR TERMINATION OF THE APPROVAL OF AN EMERGENCY MEDICAL SERVICE TRAINING AGENCY: Approval of an emergency medical service training agency will not be terminated except as provided hereafter:

1. If the Department determines that the emergency medical service training agency is not maintaining the standards required by the statutes and by these regulations, the emergency medical service training agency will be notified. Notice thereof will be given in writing by the Department to the approved training agency specifying the deficiency(ies).

The notice must:

- a. Be given by either registered or certified mail;
 - b. Specify the deficiency(ies); and
 - c. Specify the dates that the deficiencies are to be corrected.
2. The emergency medical service training agency will be given no more than 12 months in which to correct the deficiency(ies) in its program.
 3. If the emergency medical service training agency fails to make the necessary corrections within the prescribed period, the Department will terminate approval.
 4. If the Department proposes to terminate the approval to be an emergency medical services training agency, the training agency will be given an opportunity for a hearing before the Department and has the right to present evidence on it's own behalf. Hearings before the

Department will be conducted pursuant to 184 NAC 1, the Rules of Practice and Procedure for the Department.

5. If the emergency medical service training agency does not accept the Director's decision, it may appeal the decision to the District Court pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act.

13-010 REAPPLICATION REQUIREMENTS AND PROCEDURES FOR AN EMERGENCY MEDICAL SERVICE TRAINING AGENCY: An emergency medical service training agency whose approval has been terminated, must reapply to the Department as set forth in 172 NAC 13-003.

13-011 INITIAL EMERGENCY MEDICAL SERVICE INSTRUCTOR LICENSURE: Any person who wishes to represent himself/herself as an emergency medical service instructor must be licensed as such. The criteria for issuance of a license and the documentation required by the Department are set forth below.

13-011.01 Qualifications: An applicant who wishes to be licensed as an emergency medical service instructor must meet the requirements described below:

1. Be at least 18 years of age and of good character;
2. For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.;
3. Hold a current license as an out-of-hospital emergency care provider at or above the level being taught;
4. Have successfully completed:
 - a. The 1986, 1995, or 2002 U.S. Department of Transportation, National Highway Traffic Administration Emergency Medical Service Instructor Course; or
 - b. A college or university program where the applicant received a bachelor's degree or above in education; or
 - c. The National Fire Protection Agency 1041 Instructor 2 Course; or
 - d. The Nebraska EMS Instructor Course, or its equivalent.
5. Must have at least three years of field experience as an out-of-hospital emergency care provider immediately preceding the date the Department receives the emergency medical service instructor application; and
6. Demonstrate skill competency in the National Registry Skills at the level being taught by:
 - a. Having a current National Registry Certificate; OR
 - b. Submitting documentation of successfully completing a practical examination over the National Registry Skills conducted by a licensed EMS instructor, training agency medical director or training agency physician surrogate.

13-011.02 Application: To apply for a credential to practice as an emergency medical service instructor, the individual must submit a complete application to the Department. A complete application includes all required documentation and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - (9) Out-of-hospital emergency care provider license number;
 - (10) Level that will be taught;
 - (11) List the emergency medical services where you practiced for the past three years as an out-of-hospital emergency care provider, the dates you were practicing and the name of the service officer;
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced as a primary emergency medical service instructor in Nebraska before submitting the application; or
 - (2) If s/he has practiced as a primary emergency medical service instructor in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 13-014 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is;
 - (a) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i.) A citizen of the United States;
 - (ii.) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or

- (iii.) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
 - c. Evidence that the applicant is:
 - (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act
 - d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);

- (4) A Certificate of Naturalization (N-550 or N-570);
- (5) A Certificate of Citizenship (N-560 or N-561);
- (6) Certification of Report of Birth (DS-1350);
- (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
- (8) Certification of Birth Abroad (FS-545 or DS-1350);
- (9) A United States Citizen Identification Card (I-197 or I-179);
- (10) A Northern Mariana Card (I-873);
- (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of EMS Instructor Course, including:
 - (1) Name and date of EMS Instructor Course;
 - (2) Name of training agency, school, college, university that awarded certificate; and
 - (3) Certificate of Completion issued by entity that awarded the certificate.
- f. Documentation of Completed Practice Examination:
 - (1) Current National Registry certification at the level being taught or;
 - (2) Verification from a certified EMS Instructor, Training Agency Medical Director or Training Agency Physician Surrogate that the applicant has successfully completed a practical examination over the National Registry Skills for the level being taught; and
- g. Documentation of Board Approved Basic Cardiac Life Support Instructor or Advanced Cardiac Life Support Certification as specified in 172 NAC 13-017.

13-011.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

13-011.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 13-014, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

13-011.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

13-011.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 13-019 or such other action as provided in the statutes and regulations governing the credential.

13-011.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

13-011.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

13-011.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

13-012 EMS INSTRUCTOR CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless such requirements are waived in accordance with 172 NAC 13-013.03 and 13-013.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

13-012.01 On or before the credential expiration date, the emergency medical service instructor must meet the following continued competency requirements:

1. Hold a current license as an out-of-hospital emergency care provider. The license must be at or above the level being taught by the EMS instructor;
2. Complete 12 hours of continuing education, within the 24 months preceding the license expiration date, in educational subject matter that includes all of the following subjects:
 - a. EMS Course Curriculum Updates;
 - b. EMS Legislation and Regulations;
 - c. EMS Evaluation Methods; and
 - d. Fundamentals of Teaching Adults.
3. Hold a current certificate as a basic cardiac life support instructor or advance cardiac life support instructor or above; and
4. Teach at least 12 hours of adult education over public safety or health care within 24 months prior to the expiration date of the license.

13-013 EMS INSTRUCTOR RENEWAL: An individual who wants to renew his/her emergency medical service instructor credential must maintain a current out-of-hospital emergency care provider license. All emergency medical services instructor credentials issued by the Department will expire on December 31 of each even-numbered year or expire the second year after issuance. Renewal period for emergency medical services instructor licenses that expire on December 31, 2011 will be renewed for one year. Continuing education obtained in the year 2010 will be allowed towards the renewal in 2011.

13-013.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal; and
5. Information on how to request renewal.

13-013.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#) or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 13-012 or has requested a waiver if s/he meets the requirements of 172 NAC 13-013.03 and/or 13-013.04
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 13-014, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551),

- both front and back of the card;
- (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department;

13-013.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 13-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

13-013.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

13-013.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include suffering from a serious or disabling illness or physical disability which prevented completion of the continuing competency requirements during the 24 months immediately preceding the certification renewal date.

13-013.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

13-013.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

13-013.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

13-013.05C Acceptable documentation that the credential holder has met the continuing competency requirements include:

1. Certificates of completion; and
2. Letters from training agencies or equivalent agencies attesting that the credential holder taught at least 12 hours of adult education over public safety or health care.

13-013.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

13-013.05E The Department will notify the credential holder upon satisfactory completion of the audit.

13-013.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

13-013.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

13-013.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

13-013.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be

made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

13-013.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

13-013.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

13-013.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to submit documentation of continuing competency.

13-013.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

13-013.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as an EMS instructor terminates.

13-013.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 13-019 or such other action as provided in the statutes and regulations governing the credential.

13-013.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of EMS instructor after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 11-012.

13-013.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

13-013.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

13-013.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of an emergency medical services instructor, but may represent him/herself as having an inactive credential.

13-013.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her EMS Instructor license returned to active status must hold a current out-of-hospital emergency care provider license and must apply to the Department for reinstatement and meet the requirements specified in

172 NAC 11-012.01 items 1, 2 and 8.

13-014 DISCIPLINARY ACTIONS

13-014.01 Grounds for Action Against a Credential: A credential to practice as an EMS Instructor may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 13-014.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;

19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 13-014.02; or
24. Violation of the Automated Medication Systems Act.

13.014.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - b. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
 - c. By a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency:
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;

13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
15. Use of inappropriate language during the course of instruction, such as obscenities, vulgarisms, or other offensive language;
16. Assigning duties to unqualified personnel for which the EMS instructor is responsible;
17. Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of duties involving instruction;
18. Engaging in sexual harassment of students. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature for the purpose or effect of creating an intimidating, hostile, or offensive learning environment; and
19. Teaching outside the scope of practice identified by the definition of EMS courses as outlined in 172 NAC 13-002.

13-014.03 Temporary Suspension or Limitation

13-014.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 13-014.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

13-014.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

13-014.03C A temporary suspension or temporary limitation of a credential under 172 NAC 13-014.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

13-014.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

13-014.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;

5. Suspension; or
6. Revocation.

13-014.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 13-014.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

13-015 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

13-015.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;

3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

13-015.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

13-015.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

13-015.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

13-015.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

13-015.06 Reinstatement following voluntary surrender is set out in 172 NAC 11-012.

13-016 REINSTATEMENT FOR EMS INSTRUCTOR: Information on reinstatement may be found in 172 NAC 11-012.

13-017 REQUIREMENTS FOR APPROVING ORGANIZATIONS ISSUING A CARDIOPULMUNARY RESUSCITATION CERTIFICATION: The Board will annually review and approve any nationally recognized organization, issuing cardiopulmonary resuscitation certificates to out-of-hospital emergency medical care providers, whose course meets the following criteria:

1. A Cardiopulmonary Resuscitation course curriculum must include but not be limited to the following components:
 - a. Two person adult resuscitation;
 - b. One person adult resuscitation;
 - c. Procedure for treating an adult with an obstructed airway;
 - d. One person child resuscitation;
 - e. Procedure for treating a child with an obstructed airway;
 - f. One person infant resuscitation;

- g. Procedure for treating an infant with an obstructed airway;
 - h. Using barrier devices; and
 - i. Requiring a written and practical skills evaluation for each student.
2. A Cardiopulmonary Resuscitation course must be taught by an individual: Recognized as:
 - a. An American Heart Association Basic Life Support Instructor;
 - b. An American Heart Association Basic Life Support Instructor Trainer;
 - c. An American Heart Association Basic Life Support Regional Faculty;
 - d. An American Heart Association Basic Life Support National Faculty;
 - e. An American Red Cross Professional Rescuer Instructor Trainer;
 - f. An American Red Cross CPR for the Professional Rescuer Instructor;
 - g. A National Safety Council Basic Life Support Instructor;
 - h. A National Safety Council Basic Life Support Instructor Trainer; or
 - i. An individual who has completed and passed an instructor course which trains instructors to teach a cardiopulmonary resuscitation course which includes the components identified in 172 NAC 13-010 item 1.
3. The organization issuing the cardiopulmonary resuscitation certificate must issue a certificate to each individual who completes the course that identifies the following:
 - a. Name of the course;
 - b. Name of the person passing the course;
 - c. Date the certificate was issued;
 - d. Date the certificate expires;
 - e. Name of the organization issuing the certificate; and
 - f. Identification of the instructor.
4. The cardiopulmonary resuscitation certificate issued by an approved organization will expire no more than two years from the date of issuance.
5. The organization issuing the cardiopulmonary resuscitation certificate maintains the records of the training for three years. The records are to include:
 - a. Course rosters indicating attendance at each session of the course;
 - b. Course curricula;
 - c. Documentation of successful completion of the skills evaluation; and
 - d. Documentation of successful completion of the written evaluation.
6. The records of the course must be available for inspection and copying by the Department.

13-018 REQUIREMENTS FOR APPROVAL AS A DISTRIBUTIVE LEARNING ORGANIZATION:

Any organization who intends to provide distributive learning programs for the purpose of issuing certificates of completion and/or award hours to be used towards the renewal of out-of-hospital emergency care provider licensure must be approved by the Department.

13-018.01 An applicant applying to become an approved distributive learning organization must:

1. Be accredited by the Continuing Education Coordinating Board of Emergency Medical Services (CECBEMS); or

2. Be an educational institution, a national, state, regional, or local agency or any combination of the above;
3. Conduct and document an assessment of each distributive learning program. An assessment must be completed on each distributive learning program annually or prior to initial distribution. The assessment must include:
 - a. Review of each distributive learning program's objectives for adherence to care and treatment standards;
 - b. Review of the media in which the distributive learning program is produced to ensure it is of good quality in appearance and has not been edited or tampered with by an unauthorized third party;
 - c. Review of student evaluations of its distributive learning programs by mail, electronic mail, Internet, or direct voice comment. Each test should:
 - (1) Cover the distributive learning program's objectives;
 - (2) Be knowledge appropriate for the targeted level of out-of-hospital emergency care provider; and
 - (3) Require a score of pass/fail for each student before a certificate of completion is awarded.
4. Test each student who completes a distributive learning program and maintain records of individual scores;
5. Utilize a quality assurance (QA) and/or quality improvement (QI) model with each distributive learning program that will delineate the areas that need improvement. The QA/QI model must include:
 - a. Student satisfaction surveys. The surveys must include questions that indicate if:
 - (1) The program's instruction is of high quality;
 - (2) The media used was clear; and
 - (3) The program was easy to use.
 - b. An evaluation of test pass rates for:
 - (1) Each individual distributive learning program; and
 - (2) All distributive learning program offerings authored/instructed by the same individual or group of authors/instructors.
 - c. Test group or committee evaluations of each new distributive learning program. The evaluations will contain:
 - (1) Review of the security for awarding certificates of completion to ensure that only students who complete the program requirements are awarded such certificates; and
 - (2) Review of the organization's management of:
 - (a) Compliance with the requirements of these regulations;
 - (b) Record keeping maintenance;
 - (c) New program development; and
 - (d) Instructor/author development.
6. Have a program coordinator;
7. Utilize individual(s) trained in educational delivery and/or expert(s) in the specific distributive learning program contents to develop the program's objectives, content, instructional style or authorship, and method of delivery. The program may utilize

- professional narrators and actors to professionally deliver the program under the direction of the program's development expert;
8. Clearly display the organizational name, address, phone number, program, author/instructors names in any information regarding each distributive learning program;
 9. Have a secured system to protect all electronic transfers of student information, test score results, certificates of completion, and evaluations; and
 10. Have a system for awarding certificates of completion for each individual that successfully completes one of the organization's distributive learning programs; and
 11. Submit an application provided by the Department for approval as a distributive learning organization or on an alternate format which includes:
 - a. The organization name;
 - b. The organization address and telephone number;
 - c. The organization program coordinator name; and
 - d. The following attachments
 - (1) Copy of the policy and procedure addressing the security system for protecting all electronic transfers of student information, test score results, certificates of completion and evaluations;
 - (2) Copy of completed assessment of a distributed learning program;
 - (3) Copy of a test for a distributive learning program;
 - (4) Copy of a distributive learning program;
 - (5) Copy of the organization's Quality Assurance/Improvement policy and process;
 - (6) Sample of a certificate of completion; and
 - (7) List of the organizations instructors/authors and each individual's qualifications; or
 - (8) A copy of the Certificate of Accreditation from CECBEMS.

13-018.02 A representative or designee of the Department may request information from the distributive learning organization with these regulations if a complaint has been received that alleges that the distributive learning organization has violated the Emergency Medical Services Practice Act or these regulations.

13-018.03 The distributive learning organization may submit the additional information as the applicant may consider relevant to the application and compliance with the provisions of these regulations.

13-018.04 In the event that an application is determined to be incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of the additional information. The applicant will have ten days in which to provide the information necessary to complete the application. Should an applicant fail to complete the application within the ten day period, all materials will be returned and a new application will be necessary.

13-018.05 Grounds for Denial of Approval as a Distributive Learning Organization: The Department will deny an application for approval as a distributive learning organization or will suspend or revoke approval as a distributive learning organization on any of the following grounds:

1. Fraud or misrepresentation of information in the application; or
2. Distributive learning organization fails to meet the requirements as specified in 172 NAC 13-018.

13-018.06 Once a distributive learning organization is granted approval by the Department reapproval will not be required, except if approval has been suspended or revoked.

13-018.07 The Department may grant or deny an application for approval as a distributive learning organization. Should the Department determine to deny an application for approval as a distributive learning organization, it will send to the applicant by either certified or registered mail to the last address of record in the Department, a notice setting forth the reason/reasons for the determination. The denial will become final 30 days after the mailing of the notice unless the applicant within the 30 day period gives written notice to the Department requesting a hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

13-019 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

13-019.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person or indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

13-019.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of

- an administrative penalty;
- d. That the Department will within 30 days following receipt of the payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person or entity to whom the penalty is assessed.

13-019.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

13-020 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

These amended rules and regulations replace Title 172 NAC 13, Emergency Medical Services Training Agencies, effective December 27, 2005 and Section 13-008 Repealed (Effective date October 4, 2006).

Approved by the Attorney General:

July 30, 2012

Approved by Governor:

September 4, 2012

Filed with Secretary of State of Nebraska:

September 4, 2012

Effective Date:

September 9, 2012

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:

http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

2005

STATE OF NEBRASKA

Statutes, Rules and Regulations

Relating to:

USE OF AUTOMATED EXTERNAL DEFIBRILLATORS

TITLE 172 NAC 14



**Nebraska Department of Health
and Human Services**

**Division of Public Health
Licensure Unit**

Nebraska State Office Building
301 Centennial Mall South-Third Floor
P.O. Box 94986
Lincoln, NE 68509-4986

Effective Date: December 11, 2005

Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

Chapter 14 USE OF AUTOMATED EXTERNAL DEFIBRILLATORS

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 14 USE OF AUTOMATED EXTERNAL DEFIBRILLATORS

14-001 Scope and Authority: These regulations apply to the acquiring and use of automated external defibrillators as defined in Neb. Rev. Stat. § 71-51,102.

14-002 Definitions

Automated external defibrillator (AED) means a device that:

1. Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;
2. Is capable of determining, without intervention of an operator, whether defibrillation should be performed; and
3. Automatically charges and requests delivery of an electric impulse to an individual's heart when it has identified a condition for which defibrillation should be performed.

Health care professional means any person who is licensed, certified, or registered by the Department of Health and Human Services Regulation and Licensure and who is authorized within his/her scope of practice to use an automated external defibrillator.

14-003 Acquisition of Automated External Defibrillators: A person acquiring an automated external defibrillator must notify the local emergency medical service of the existence, location, and type of the defibrillator, and of any change in the location of such defibrillator unless the defibrillator was acquired for use in a private residence, a health care facility, or a health care practitioner facility. If an Automated External Defibrillator is located in a vehicle or other movable object, only the primary site where the vehicle or object is located is required to be reported.

14-004 Liability: Except for the action or omission of a health care professional acting in such capacity or in a health care facility, no person who delivers emergency care or treatment using an automated external defibrillator as prescribed in 172 NAC 14 will be liable in any civil action to respond in damages as a result of his/her acts of commission or omission arising out of and in the course of rendering such care or treatment in good faith. Nothing in this section will be construed: (a) to grant immunity for any willful, wanton, or grossly negligent acts of commission or omission or (b) limit the immunity provisions for certain health care professionals as provided in Neb. Rev. Stat. § 71-5194.

Effective Date
December 11, 2005

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 14

Approved by Attorney General: November 28, 2005
Approved by Governor: December 06, 2005
Filed with Secretary of State: December 06, 2005
Effective Date: December 11, 2005

Forms may be obtained by contacting the Credentialing Division.

Nebraska Department of Health and Human Services
Regulation and Licensure
Credentialing Division
PO Box 94986
Lincoln NE 68509-4986

Advanced Certification: (402)471-2159 or 800/422-3460 Press 1 then 2
Basic Certification: (402)471-0153 or 800/422-3460 Press 1 then 1

<http://www.hhss.ne.gov/crl/profindex1.htm>

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 15 LICENSURE OF ALCOHOL AND DRUG COUNSELORS

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Nebraska Department of
Health and Human Services

172 NAC 15

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 15 LICENSURE OF ALCOHOL AND DRUG COUNSELORS

15-001 Scope and Authority: These regulations apply to licensure of alcohol and drug counselors as defined by Neb. Rev. Stat. §71-1,351 to 71-1,361 and the Uniform Licensing Law.

15-002 Definitions

Act means Neb. Rev. Stat. §71-1,351 to 71-1,361 known as the Practice of Alcohol and Drug Counseling section of the Uniform Licensing Law.

Alcohol or Drug Abuse means the abuse of alcohol or other drugs which have significant mood or perception changing capacities, which are likely to be physiologically or psychologically addictive, and the use of which have negative physical, social, or psychological consequences.

Alcohol and Drug Counseling means providing or performing the core functions of an alcohol and drug counselor for remuneration.

Alcohol and Drug Counselor means a person engaged in alcohol and drug counseling.

Alcohol or Drug Dependence means cognitive, behavioral, and psychological symptoms indicating the continued use of alcohol or other drugs despite significant alcohol or drug-related problems.

Alcohol or Drug Disorder means a substance-related disorder as defined in the latest edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Alcohol and Drug Counseling.

Client means a person being assessed for a possible alcohol or drug disorder or an individual with an alcohol or drug disorder diagnosis who is receiving the direct services of the counselor. It includes those client cases the counselor may review, consult on or staff as part of an agency. Client may also include significant others for whom counseling or other services are provided in the context of treatment for the diagnosed alcohol/drug disordered person.

Clinical Supervision is supervision directed towards enhancing and promoting the clinical skills and competencies of persons who are earning the 6,000 hours of clinical work experience by providing alcohol and drug counseling pursuant to 172 NAC 15-004.

Clinical Supervisor is the person directly responsible for supervising the 6,000 hours of clinical work experience set out in 172 NAC 15-004 and who holds the credential specified in 172 NAC 15-004.01, item 3e.

Code of Ethics means the standards set out in 172 NAC 15-016 to govern the conduct of Licensed Alcohol and Drug Counselors and Provisional Licensed Alcohol and Drug Counselors.

Completed Application means an application with all of the information requested, the signature of the applicant, fees and all required documentation submitted.

Continuing Competency means the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. § 71-161.09 and to ensure:

1. The maintenance of knowledge and skills necessary to competently practice alcohol and drug counseling;
2. Utilization of new techniques based on scientific and clinical advances; and
3. Promotion of research to assure expansive and comprehensive services to the public.

Continuing Competency programs/activities may be offered as follows:

1. College/university coursework;
2. Home study programs;
3. Research;
4. Continuing education programs or presentations; or
5. Presenter of an approved continuing education program.

Continuing Competency hours/credits are determined as follows:

1. College/University Coursework:
 - a. 1 semester of academic credit equals 15 continuing competency credit hours.
 - b. 1 quarter hour of academic credit equals 10 continuing competency credit hours; and
 - c. 1 trimester hour of academic credit equals 14 continuing competency credit hours.
2. Home Study Programs: A licensee may earn up to 15 hours of continuing competency per biennial renewal period.
3. Research: A licensee may earn up to 10 hours of continuing competency per biennial renewal period. This is a peer review environment by either poster-session or publication.
4. Presenter: A presenter may earn up to 15 hours of continuing competency per biennial renewal period for each initial presentation; hours will not be granted for repeat presentations within the same biennial.
5. Continuing Education Programs or Presentations: 60 minutes of participation or presentation equals 1 continuing competency hour.

Continuing competency means the same as continuing education.

Core Functions means the following 12 activities an alcohol and drug counselor performs in the role of counselor: Screening, intake, orientation, assessment, treatment planning, counseling (individual, group and significant others), case management, crisis intervention, client education, referral, reports and recordkeeping and consultation with other professionals in regard to client treatment and services. These core functions are in accordance with the IC&RC/AODA, Inc. definitions as follows:

1. Screening means the process by which a client is determined appropriate and eligible for admission to a particular program.
2. Intake means the administrative and initial assessment procedures for admission to a program.
3. Orientation means describing to the client the general nature and goals of the program; the rules governing client conduct and infractions that can lead to disciplinary actions or discharge from the program; in a non-residential program, the hours during which services are available; treatment costs to be borne by the client, if any; and client rights.

4. Assessment means those procedures by which a counselor/program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan.
5. Treatment Planning means the process by which the counselor and the client identify and rank problems needing resolution, establish agreed upon immediate and long-term goals, and decide on a treatment process and the resources to be utilized.
6. Counseling means the utilization of special skills to assist individuals, families, or groups in achieving objectives through the exploration of a problem and its ramifications; the examination of attitudes and feelings; consideration of alternative solutions; and decision making.
7. Case Management means activities which bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established client goals. It may involve liaison activities and collateral contacts.
8. Crisis Intervention means those services which respond to an alcohol and/or other drug abuser's needs during acute emotional and/or physical distress.
9. Client Education means the provision of information to the client and significant others, either individually or in a group, concerning alcohol and other drug abuse and available services and resources.
10. Consultation with other Professionals in Regard to Client Treatment/Services means relating with professionals from one's own profession and from other professions to assure comprehensive, quality care for the client.
11. Referral means identifying the needs of the client that cannot be met by the counselor or agency and assisting the client to utilize the support systems and community resources available.
12. Reports and Recordkeeping means charting the results of the assessment and treatment plan; and writing reports, progress notes, discharge summaries and other client-related data.

Department means the Department of Health and Human Services.

Director means the Director of the Division of Public Health or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201 for performance of the duties set out in that statute.

Division means the Division of Public Health of the Department of Health and Human Services.

Education as it relates to the 270 clock hours of education in Neb. Rev. Stat. §71-1,355 and 172 NAC 15-003.01 means formal education in the form of workshops, seminars, institutes and college/university coursework.

Family Member means spouse, significant other, children, parents, grandparents, grandchildren, brothers, sisters, aunts, uncles, cousins, or persons bearing the same relationship to the spouse.

Hour of Education as it relates to the 270 clock hours of education in Neb. Rev. Stat. §71-1,355 and 172 NAC 15-003.01 is determined as follows:

1. One clock hour equals 60 minutes of instruction.
2. One semester hour of post-secondary education equals 15 hours of education.
3. One quarter hour of post-secondary education equals 10 hours of education.

Inactive License means the voluntary termination of the right or privilege to provide alcohol and drug counseling. The licensee retains the right or privilege to represent himself or herself as having an inactive license.

International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc. (IC&RC/AODA, Inc) means the organization that establishes minimum international standards for alcohol and drug counselor credentialing.

Lapsed License means the voluntary termination of the right or privilege to represent oneself as a licensed person and to provide alcohol and drug counseling.

Licensed means an individual who holds a current license to practice.

Licensed Alcohol and Drug Counselor (LADC) means a person who holds a current license as an alcohol and drug counselor issued by the Department.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 15.

Official Transcript from a Post-Secondary Educational Institution means a transcript issued by and under the original seal of the educational institution.

Practical Training Supervisor means the person(s) directly responsible for supervising the 300 hours of practical training (internship/practicum) set out in 172 NAC 15-003.01 and who holds a credential pursuant to 172 NAC 15-003.01, item 3f.

Practical Training Supervision is supervision directed towards enhancing and promoting the practical skills and competencies of persons who are earning the 300 hours of practical training (internship/practicum) by providing alcohol and drug counseling as set forth in 172 NAC 15-003.01.

Provisional Licensed Alcohol and Drug Counselor (PLADC) means a person who holds a current provisional license as an alcohol and drug counselor issued by the Department.

Reciprocity means the mutual recognition of valid credentials between credentialing bodies or jurisdictions.

Scope of Practice means the application of general counseling theories and treatment methods adapted to specific addiction theory and research for the express purpose of treating any alcohol or drug abuse, dependence, or disorder. The practice of alcohol and drug counseling consists of the following performance areas which encompass the 12 core functions: Clinical evaluation; treatment planning; counseling; education; documentation; and professional and ethical standards.

1. The performance area of clinical evaluation consists of screening and assessment of alcohol and drug problems, screening of other presenting problems for which referral may be necessary, and diagnosis of alcohol and drug disorders. Clinical evaluation does not include mental health assessment or treatment. An alcohol and drug counselor must refer a person with co-occurring mental disorders unless such person is under the care of, or previously assessed or diagnosed by, an appropriate practitioner within a reasonable amount of time.
2. The performance area of treatment planning consists of case management, including implementing the treatment plan, consulting, and continuing assessment and treatment planning; referral; and client advocacy.
3. The performance area of counseling consists of individual counseling, group counseling, and family or significant other counseling.
4. The performance area of education consists of education for clients, family of clients, and the community.

Substance Abuse (See definition of Alcohol or Drug Abuse).

Supervised Clinical Work Experience means those work activities performed while obtaining the required 6,000 hours of clinical work experience under clinical supervision which involve primary responsibility for providing alcohol and drug treatment counseling services to alcohol and other drug clients and for which remuneration is received.

Verified means that the accuracy and truth of the statement or contents of a document are sworn to before a Notary Public.

15-003 PROVISIONAL LICENSED ALCOHOL AND DRUG COUNSELOR (PLADC): This is a status for individuals working towards Licensed Alcohol and Drug Counselor (LADC). The status enables them to practice and acquire the 6,000 hours of supervised clinical work experience in alcohol and drug counseling, as defined in 172 NAC 15-004.01, item 3, required for LADC.

1. An individual must obtain a provisional license if gaining hours in Nebraska.
2. For hours gained in Nebraska prior to July 1, 2004, an individual must have held a credential that authorized him/her to provide alcohol and drug counseling and been supervised as set forth in 172 NAC 15-004.01, items 3e and 3f.
3. Provisional status may be granted once, must be renewed on or before September 1 of each even-numbered year, may only be renewed twice, and may be held for a time period not to exceed 6 years.
4. A provisional licensee may not render services without clinical supervision as set forth in 172 NAC 15-004.01, items 3e and 3f.
5. A provisional licensee must inform all clients that s/he holds a provisional license, is practicing under supervision, and must identify the supervisor.
6. Any hours obtained in Nebraska prior to the receipt of the provisional license will not be considered towards meeting the 6,000 hours of supervised clinical work experience required for a license as an alcohol and drug counselor except as outlined in item number 2 above.

The criteria for the issuance of a provisional license and the documentation required by the Department and the Board are set forth below.

15-003.01 Requirements: A person applying for a provisional license must:

1. Have a high school diploma or its equivalent. For purposes of this section, a person having a post-secondary degree will be deemed to have a high school diploma;
2. Have completed 270 clock hours of education (workshops, seminars, institutes, college/university coursework) related to the knowledge and skills of alcohol and drug counseling, which included:
 - a. Counseling Theories and Techniques - A minimum of 45 clock hours. This means education that includes the study and practice of theories, principles, and techniques of counseling.

A minimum of 4 accepted counseling techniques must be studied such as active listening, reflective feedback, summarizing, self-disclosing, displaying empathy, confronting, establishing rapport, and communicating at the client's comprehension level.

A minimum of 4 accepted counseling theories must be studied such as Adlerian, cognitive behavioral, client-centered, Gestalt, rational emotive, reality, and transactional analysis.

- b. Group Counseling - A minimum of 45 clock hours. This means education that includes the study and practice of group theories, processes, dynamics, techniques, methods, and group counseling and facilitation.
- c. Human Growth and Development - A minimum of 30 clock hours. This means education that includes the study of the nature and needs of individuals at all developmental levels from birth to death.
- d. Professional Ethics and Issues - A minimum of 15 clock hours. This means education that addresses standards of conduct and professional behavior expectations for counselors.

Ethical standards to be studied may include non-discrimination, responsibilities and integrity, competence, moral standards, client welfare, legal issues, client relationships, inter-professional relationships, remuneration and societal obligations.

- e. Alcohol/Drug Assessment, Case Planning and Management - A minimum of 30 clock hours. This means education on the process of collecting client data for making decisions regarding alcohol/drug disorder diagnosis, level of care placement, and treatment and referral.

Two or more alcohol/drug assessment instruments must be studied. There must be study and practice of record keeping addressing the development of alcohol/drug assessment summaries, treatment plans, progress notes, discharge plans and clinical case reviews including case management activities to bring together services, agencies, and resources to achieve client treatment goals while adhering to confidentiality as it relates to these areas.

- f. Multicultural Counseling - A minimum of 30 clock hours. This means education on cultural, social, lifestyle, spiritual, and economic factors relevant to the provision of competent and relevant counseling to varied populations. The education must include the adaptation of traditional counseling theories and techniques.

- g. Medical and Psychosocial Aspects of Alcohol/Drug Use, Abuse and Addiction - A minimum of 45 clock hours. This means education on the physiological, psychological, and sociological aspects of alcohol/drug use, abuse, and dependence. The education must include studying the processes of dependence, addiction, and withdrawal covering signs, symptoms, and behavior patterns. It also must include the study of drug types and pharmacology; and
- h. Clinical Treatment Issues in Chemical Dependency - A minimum of 30 clock hours. This means education such as the study of treatment issues specific to chemical dependency including denial, resistance, minimization, family dynamics, relapse, cross-addiction, co-occurring disorders, spirituality, and influences of self-help groups. The education must include studying chemical dependency clinical treatment needs of individuals taking into consideration gender, culture, and lifestyle.

An applicant who holds an active credential as a Provisional Licensed Mental Health Practitioner (PLMHP) or Licensed Mental Health Practitioner (LMHP) issued by the State of Nebraska at the time of application for a Provisional Licensed Alcohol and Drug Counselor is deemed to have met 172 NAC 15-003.01, items 2a, 2b, 2c, 2d and 2f.

- 3. Have completed supervised practical training which:
 - a. Included performing a minimum of 300 hours in the counselor core functions in a work setting where alcohol and drug counseling is provided;
 - b. Included the performance of all counselor core functions with no single function performed less than 10 hours;
 - c. Had a formal, systematic process that focused on skill development and integration of knowledge of the 12 core functions;
 - d. Included review of the global criteria for each of the core functions as outlined by IC&RC/AODA, Inc.;
 - e. Included training hours documented by performance date and core function performance areas; and
 - f. Was supervised by a practical training supervisor.

(1) The practical training supervisor must hold one of the following credentials:

- (a) Licensed Alcohol and Drug Counselor as defined in 172 NAC 15-002 who has been licensed and who has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding supervision as a practical training supervisor. If any of these actions are taken by the Department during the practical training supervision period, the LADC must terminate the supervision immediately; or
- (b) If hours are earned out-of-state, a reciprocity level alcohol and drug counselor credential from a member jurisdiction of the IC&RC/AODA, Inc. or its successor; or
- (c) A physician or psychologist licensed under the Uniform Licensing Law, or an equivalent credential from another jurisdiction (if the hours were earned in another state), and sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists, in consultation with the Board of Alcohol and Drug Counseling.

(i) For physicians, sufficient training includes:

- 1. Holding an American Board of Psychiatry and Neurology subspecialty certification in addiction psychiatry; or
- 2. Holding an American Society of Addiction Medicine (ASAM) certification; or
- 3. Having significant work in substance abuse treatment, which includes 3 years with at least 20% of time working in the substance abuse treatment field. These physicians must maintain competency by demonstrating that at least 20% of their continuing medical education (CME) is focused on substance abuse issues.

In addition, these physician supervisors must incorporate knowledge of the 12 core functions and 46 global criteria of substance abuse counseling into the supervisory experience.

(ii) For psychologists, sufficient training includes at least 3 hours of training on the 12 core functions and 46 global criteria pre-approved by the Board of Psychologists. A primary supervisor who is a

psychologist must also hold an active license and his/her license must not have been disciplined, limited, suspended, or placed on probation at any time while holding his/her credential. If any of these actions are taken by the Department during the supervisory period, the supervisor must terminate the supervision immediately and notify the Department of said action.

(2) The practical training supervisor:

- (a) Must not be a family member; and
- (b) Assumes responsibility for the performance of the individual in training and must be onsite at the work setting when core function activities are performed by the individual in training. (Onsite means readily accessible within the same building.)

A minimum of 1 hour of evaluative face-to-face supervision for each 10 hours of core function performance must be documented.

Supervisory methods must include, as a minimum, individual supervisory sessions, formal case staffings, and conjoint/co-therapy sessions. Supervision is to be directed towards teaching the knowledge and skills of alcohol and drug counseling.

- 4. Have attained the age of majority and is of good moral character; and
- 5. Have signed an attestation indicating s/he has read and agrees to be bound by the Code of Ethics for alcohol and drug counselor licensure as set out in 172 NAC 15-016 and the Grounds for Discipline for alcohol and drug counselor licensure pursuant to 172 NAC 15-015.03.

15-003.02 Application Process: The following must be submitted to the Department:

- 1. A complete application for a provisional alcohol and drug counselor license. The application may be submitted on Attachment A attached to these regulations and incorporated by this reference or an alternate form that contains the same information;
- 2. Official copy of high school diploma, General Education Document (GED), high school transcript that shows date of graduation, or official transcript verifying receipt of a post-secondary degree;

3. Documentation of 270 clock hours of education (workshops, seminars, institutes, college/university coursework) as set out in 172 NAC 15-003.01, item 2; hours must be documented on Attachment A.
 - a. An official transcript must be submitted for any hours completed through a college or university; and
 - b. Certificates of completion must be submitted for hours earned through workshops/seminars and institutes;
4. Official course descriptions for each course submitted (i.e., syllabi, course catalogue, brochure, etc.) and indication of the course name and course number;
5. Documentation of 300 hours of supervised practical training with a minimum of 10 hours in each core function, documented on Attachment A1;
6. Evidence of having attained at least the age of majority, examples of evidence include:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
7. If the applicant holds a credential in another state and if any disciplinary action was taken against the applicant's credential by another state, an official copy of the disciplinary action, including charges and disposition;
8. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
9. Attestation by the applicant:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska without a credential prior to the application for a PLADC license; or

- b. To the actual number of days s/he practiced alcohol and drug counseling in Nebraska without a credential prior to the application for a PLADC license;
10. The required provisional license fee; and
11. Attestation that the applicant has read and agrees to be bound by the Code of Ethics for alcohol and drug counselor licensure as set out in 172 NAC 15-016 and the Grounds for Discipline for alcohol and drug counselor licensure as set out in 172 NAC 15-015.03.

15-003.03 Client Notification: An individual who holds a provisional alcohol and drug counselor license must inform all clients that s/he holds a provisional license and is practicing alcohol and drug counseling under supervision and must identify the supervisor. Failure to make such a disclosure is a ground for discipline as set forth in 172 NAC 15-015.03.

15-003.04 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 15-017, or such other action as provided in the statutes and regulations governing the credential.

15-003.05 Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1 and the credential will be valid until the next subsequent renewal date.

15-003.06 Department Review: The Department will act within 150 days upon all completed applications for a license.

15-003.07 Withdrawn Applications: An applicant for a license who withdraws his/her application or whose application is rejected by the Department will be allowed the return of his/her fee, except for an administrative fee to be retained by the Department, as authorized in Neb. Rev. Stat. §71-163.

15-003.08 Denied Application: Should the Department deny an application, it will send to the applicant by certified mail to the last address of record in the Department a notice setting forth the reasons for the determination. The denial will become final 30 days after the mailing of the notice unless the applicant within such 30-day period gives written notice to the Department of a desire for re-evaluation or for a hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

15-003.09 Clinical Supervision: A provisional licensee may not render services without clinical supervision as set out in this section.

Work experience where a qualified supervisor has not been registered with the Department, in accordance with this section, will not be accepted towards a license as an alcohol and drug counselor.

15-003.09A Registration of Supervisor: A provisional licensee must register his/her clinical work experience supervisor with the Department. The application must be submitted within 15 days of beginning employment. The application may be submitted on Attachment B attached to these regulations and incorporated by this reference or an alternate format which includes all information as specified in 172 NAC 15-003.09A. The application must include:

1. The name of an assigned qualified supervisor as defined in 172 NAC 15-004.01, item 3e; and
2. Agreement to supervise by the supervisor.

15-003.09B Change of Supervisor: A provisional licensee who changes his/her supervisor must submit an application within 15 days following the change. The application may be submitted on Attachment C attached to these regulations and incorporated by this reference or an alternate format which includes all information as specified in 172 NAC 15-003.09B. The application must include:

1. The name of an assigned qualified supervisor as defined in 172 NAC 15-004.01, item 3e; and
2. Agreement to supervise by the supervisor.

15-003.09C Termination of Supervision: If a supervisor or provisional licensee terminates supervision, s/he must notify the Department in writing immediately of the date of termination. The Department will record said termination date in the record.

15-003.10 Renewal of Provisional Status: Provisional status may be granted once, must be renewed on or before September 1 of each even-numbered year, may only be renewed twice, and may be held for a time period not to exceed 6 years. Also see 172 NAC 15-009.

15-003.11 Expiration of a Provisional License: A provisional alcohol and drug counselor license expires upon receipt of a license as an alcohol and drug counselor (LADC) or expiration date of the PLADC, whichever comes first.

15-004 LICENSED ALCOHOL AND DRUG COUNSELOR (LADC). No individual may represent himself/herself to be an alcohol and drug counselor unless licensed and no person must engage in the practice of alcohol and drug counseling unless s/he is licensed, except individuals who meet the criteria pursuant to Neb. Rev. Stat. §71-1,353 as follows:

1. Qualified members of other professions who are licensed, certified, or registered by this state from practice of any alcohol and drug counseling consistent with the scope of practice of their respective professions;

2. Teaching or the conduct of research related to alcohol and drug counseling with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of alcohol and drug counseling to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;
3. The delivery of alcohol and drug counseling by:
 - a. Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, alcohol and drug counseling, compulsive gambling counseling, or other health care or mental health service professions; or
 - b. Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;
4. Duly recognized members of the clergy from providing alcohol and drug counseling in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be alcohol and drug counselors;
5. The incidental exchange of advice or support by persons who do not represent themselves as engaging in alcohol and drug counseling, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as alcohol and drug counselors or their services as alcohol and drug counseling;
6. Any person providing emergency crisis intervention or referral services; or
7. Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with alcohol or drug disorders from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

The criteria for the issuance of a license and the documentation required by the Department and the Board are set forth below.

15-004.01 Requirements: A person applying for a license must:

1. Have met the requirements for or hold licensure as a provisional alcohol and drug counselor pursuant to 172 NAC 15-003;
2. Have received a passing score on both the International Written Examination for Alcohol and Drug Counselors and the Case Presentation Method (CPM) Oral Examination of the IC&RC/AODA, Inc. or its successor; and

3. Have completed 6,000 hours of supervised clinical work experience providing alcohol and drug counseling services to alcohol and other drug clients for remuneration. An applicant must hold a PLADC if gaining work experience hours in Nebraska. Any hours obtained in Nebraska prior to the receipt of the PLADC will not be considered towards meeting the 6,000 hours of supervised clinical work experience required for a license as an alcohol and drug counselor except as outlined in 172 NAC 15-003, item 2.
 - a. The supervised clinical work experience must have included:
 - (1) Carrying a client caseload as the primary alcohol and drug counselor performing the core functions of assessment, treatment planning, counseling, case management, referral, reports and record keeping, and consultation with other professionals for those clients; and
 - (2) Responsibility for performance of the five remaining core functions although these core functions need not be performed by the applicant with each client in his/her caseload.
 - b. Experience that will not count towards licensure includes, but is not limited to:
 - (1) Providing services to individuals who do not have a diagnosis of alcohol and drug abuse or dependence such as prevention, intervention, and codependency services or other mental health disorder counseling services, except that this does not exclude counseling services provided to a client's significant others when provided in the context of treatment for the diagnosed alcohol or drug client;
 - (2) Providing services when the experience does not include primary case responsibility for alcohol or drug treatment or does not include responsibility for the performance of all of the core functions; and
 - (3) Providing mental health disorder counseling services other than alcohol and drug counseling services to a diagnosed alcohol and drug client.
 - c. The maximum number of hours of experience that may be accrued are 40 hours per week or 2,000 hours per year.
 - d. A post-secondary educational degree may be substituted for part of the supervised clinical work experience. The degree must be from a regionally accredited post-secondary educational institution or the educational program must be accredited by a nationally recognized accreditation agency.
 - (1) An associate's degree in addictions or chemical dependency may be substituted for 1,000 hours of supervised clinical work experience.

- (2) A bachelor's degree with a major in counseling, addictions, social work, sociology, or psychology may be substituted for 2,000 hours of supervised clinical work experience.
 - (3) A master's degree or higher with a major in counseling, addictions, social work, sociology, or psychology may be substituted for 4,000 hours of supervised clinical work experience.
 - (4) A substitution may not be made for more than one degree.
- e. The clinical supervisor must hold one of the following credentials:
- (1) Licensed Alcohol and Drug Counselor as defined in 172 NAC 15-002;
or
 - (2) A reciprocity level alcohol and drug counselor credential issued by a member jurisdiction of the IC&RC/AODA, Inc. or its successor (for clinical work experience obtained outside the State of Nebraska); or
 - (3) The highest level alcohol and drug counselor credential issued by a jurisdiction that is not a member of the IC&RC/AODA, Inc. or its successor if the credential is based on education, experience, and examination that is substantially similar to the license issued in this state as determined by the Board (for clinical work experience obtained outside the State of Nebraska); or
 - (4) Physician or psychologist licensed under the Uniform Licensing Law, or an equivalent credential from another jurisdiction (if the clinical work experience hours were earned in another state), and sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists, in consultation with the Board of Alcohol and Drug Counseling.
 - (a) For physicians, sufficient training includes:
 - (i) Holding an American Board of Psychiatry and Neurology subspecialty certification in addiction psychiatry; or
 - (ii) Holding an American Society of Addiction Medicine (ASAM) certification; or
 - (iii) Having significant work in substance abuse treatment, which includes 3 years with at least 20% of time working in the substance abuse treatment field. These physicians must maintain competency by demonstrating that at least 20% of their continuing medical education (CME) is focused on substance abuse issues.

In addition, these physician supervisors must incorporate knowledge of the 12 core functions and 46 global criteria of substance abuse counseling into the supervisory experience.
 - (b) For psychologists, sufficient training includes at least 3 hours of training on the 12 core functions and 46 global criteria pre-

approved by the Board of Psychologists. A primary supervisor who is a psychologist must:

- (i) Hold an active license and his/her license must not have been disciplined, limited, suspended, or placed on probation at any time while holding his/her credential. If any of these actions are taken by the Department during the supervisory period, the supervisor must terminate the supervision immediately and notify the Department of said action; and
- (ii) Only supervise, at one time, up to 4 individuals holding either a provisional psychology license, a provisional mental health practitioner license, or a provisional alcohol and drug counselor license.

f. The clinical supervisor must:

- (1) Be formally affiliated with the program or agency in which the work experience is gained;
 - (2) Not be a family member; and
 - (3) Provide at least 1 hour of evaluative face-to-face clinical supervision for each 40 hours of paid alcohol and drug counseling work experience. Face-to-face clinical supervision may include interactive video conferencing/phone conferencing up to 50% of the time. The format for supervision must be either one-on-one or small group. Methods of supervision must include case review and discussion, physical review of written records, and direct observation of a counselor's clinical work.
4. Have signed an attestation indicating s/he has read and agrees to be bound by the Code of Ethics for alcohol and drug counselor licensure as set out in 172 NAC 15-016 and the Grounds for Discipline for alcohol and drug counselor licensure pursuant to 172 NAC 15-015.03 of these regulations; and
5. Have attained the age of majority and is of good moral character.

15-004.02 Application Process: The following must be submitted to the Department:

- 1. A complete application for an alcohol and drug counselor license. The application may be submitted on Attachment D attached to these regulations and incorporated by this reference or an alternate form that contains the same information;
- 2. If the applicant does not hold a valid PLADC, s/he must meet items 1 through 3 outlined in 172 NAC 15-003.01 and provide documentation as outlined in items 2 through 5 of 172 NAC 15-003.02;

3. Documentation of 6,000 hours of supervised clinical work experience providing alcohol and drug treatment counseling services to alcohol and other drug clients for remuneration on Attachment D1 or an alternate form that contains the same information;
4. If the applicant seeks a substitution for work experience hours based on a degree, an official transcript from a post-secondary educational institution;
5. Attestation that the applicant has read and agrees to be bound by the Code of Ethics for alcohol and drug counselor licensure as set out in 172 NAC 15-016 and the Grounds for Discipline for alcohol and drug counselor licensure as set out in 172 NAC 15-015.03;
6. Evidence of passing the following examinations:
 - a. International Written Examination for Alcohol and Drug Counselors of the IC&RC/AODA, Inc, or its successor; and
 - b. Case Presentation Method (CPM) Oral Examination of the IC&RC/AODA, Inc. or its successor;
7. If the applicant holds a credential in another state and if any disciplinary action has been taken against the applicant's credential by said state, an official copy of the disciplinary action, including charges and disposition;
8. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
9. Attestation by the applicant:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska without a credential prior to the application for a LADC license; or
 - b. To the actual number of days s/he practiced alcohol and drug counseling in Nebraska without a credential prior to the application for a LADC license;
10. If hours were obtained in another state or a provisional license as specified in 172 NAC 15-003 was not submitted, evidence of having attained at least the age of majority, examples of evidence include:

- a. Driver's license;
- b. Birth certificate;
- c. Marriage license;
- d. Official transcript which provides date of birth; or
- e. Other similar documentation; and

11. The required license fee.

15-004.03 Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1 and the credential will be valid until the next subsequent renewal date.

15-004.04 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty pursuant to 172 NAC 15-017, or such other action as provided in the statutes and regulations governing the credential.

15-004.05 Department Review: The Department will act within 150 days upon all completed applications for a license.

15-004.06 Withdrawn Applications: An applicant for a license who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for an administrative fee to be retained by the Department, as authorized in Neb. Rev. Stat. §71-163.

15-004.07 Denied Application: Should the Department deny an application, it will send to the applicant by certified mail to the last address of record in the Department a notice setting forth the reasons for the determination. The denial will become final 30 days after the mailing of the notice unless the applicant within such 30-day period gives written notice to the Department of a desire for re-evaluation or for a hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

15-005 RECIPROCITY: The criteria for the issuance of a license and the documentation required by the Department and the Board are set forth below.

15-005.01 Requirements: A person applying for a license must:

1. Hold a valid reciprocal level credential from a member jurisdiction of the IC&RC/AODA, Inc. or its successor. The member jurisdiction and the Department must currently hold membership in the IC&RC/AODA, Inc. or its successor for a reciprocity request to be considered;
2. Have attained the age of majority and is of good moral character; and

3. Have signed an attestation indicating s/he has read and agrees to be bound by the Code of Ethics for alcohol and drug counselor licensure as set out in 172 NAC 15-016 and the Grounds for Discipline for alcohol and drug counselor licensure as set out in 172 NAC 15-015.03.

15-005.02 Application Process: The following must be submitted to the Department:

1. Documentation from the IC&RC/AODA, Inc. member jurisdiction that the applicant holds a valid reciprocal credential in that jurisdiction and is entitled to its endorsement;
2. A complete application on Attachment E attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered;
3. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
4. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
5. Attestation by the applicant:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska without a credential prior to the application for a LADC license; or
 - b. To the actual number of days s/he practiced alcohol and drug counseling in Nebraska without a credential prior to the application for a LADC license;
6. Evidence of having attained at least the age of majority, examples of evidence include:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation; and

7. The required license fee.

15-005.03 Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1 and the credential will be valid until the next subsequent renewal date.

15-005.04 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 15-017, or such other action as provided in the statutes and regulations governing the credential.

15-005.05 Department Review: The Department will act within 150 days upon all completed applications for a license.

15-005.06 Denied Application: Should the Department deny an application, it will send to the applicant by certified mail to the last address of record in the Department a notice setting forth the reasons for the determination. The denial will become final 30 days after the mailing of the notice unless the applicant within such 30-day period gives written notice to the Department of a desire for re-evaluation or for a hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

15-006 RESPONSIBILITIES OF LICENSEES

1. Every person issued a credential to practice alcohol and drug counseling under these regulations must keep his/her license available in an office or place in which s/he practices and must show such proof of a license upon request.
2. Individuals licensed under these regulations must use the following wording or acronym to reference their licensure in all signs, announcements, stationery and advertisements of such licensee as follows:
 - a. Licensed Alcohol and Drug Counselor (LADC); or
 - b. Provisional Licensed Alcohol and Drug Counselor (PLADC).
3. A licensee is responsible for keeping the Department advised in writing of his/her current name and public address at all times.

15-007 EXAMINATION AND EXAMINATION APPLICATION PROCESS

15-007.01 Written Examination

1. Eligibility and Application: Applicants for licensure as an alcohol and drug counselor are eligible to take the written examination if they hold the Provisional Licensed Alcohol and Drug Counselor credential, have submitted the Written Examination Application and have paid the examination fee.
 - a. The Written Examination Application and fee must be received 60 days prior to the date of the examination. The Written Examination fee is non-refundable.
 - b. If special accommodations are requested, such request must be received 60 days prior to the date of the examination submitted on Attachment F attached to these regulations and incorporated by this reference or an alternate form which includes the same information.
2. Examination and Process: The written examination is the International Written Examination for Alcohol and Drug Counselors of the IC&RC/AODA, Inc. or its successor. The passing score is the score established by IC&RC/AODA, Inc.
 - a. The IC&RC/AODA, Inc. written test procedures and policies will be followed.
 - b. The written examination will be administered in Nebraska at least two times per year.

- (1) The Department will establish written examination dates and such other timelines as are necessary for examination administration.
 - (2) The Department or the test administration organization will notify the applicant of the date, time, place and other information pertinent to the administration of the examination.
 - (3) The applicant will be notified in writing of the written examination results within 30 days after the Department receives the examination results. The applicant may receive the results directly from the IC&RC/AODA, Inc.
3. Failed Examinations: An examinee who fails the examination may retake the examination upon payment of the fee and submittal of the Written Examination Application each time s/he is examined.

15-007.02 Oral Examination

1. Eligibility and Application: Applicants for licensure as an alcohol and drug counselor are eligible to take the oral examination if they hold the Provisional Licensed Alcohol and Drug Counselor credential, have passed the International Written Examination for Alcohol and Drug Counselors of the IC&RC/AODA, Inc. or its successor, have submitted the CPM Oral Examination Application and have paid the examination fee.
 - a. The CPM Oral Examination Application and fee must be received 60 days prior to the date of the examination. The CPM Oral Examination fee is non-refundable.
 - b. If special accommodations are requested, such request must be received 60 days prior to the date of the examination submitted on Attachment F attached to these regulations and incorporated by this reference or an alternate form which includes the same information.
2. Examination and Process: The oral examination is the Case Presentation Method (CPM) Oral Examination of the IC&RC/AODA, Inc. or its successor. The passing score is the score established by IC&RC/AODA, Inc.
 - a. The IC&RC/AODA, Inc. CPM Oral Examination procedures and policies will be followed.
 - b. The oral examination will be administered in Nebraska at least two times per year.

- (1) The Department will establish oral examination dates and such other timelines as are necessary for examination administration.
 - (2) The Department will notify the applicant of the date, time, place and other information pertinent to the administration of the examination.
 - (3) The applicant will be notified in writing of the oral examination results within 30 days of the examination.
- c. The oral examination will be audio taped and the audiotape will remain the property of the Department for use in any appeal or review. The audiotape may be erased or disposed of after the appeal time has expired.
3. Failed Examinations: An examinee who fails the examination may retake the examination upon payment of the fee and submittal of the CPM Oral Examination Application each time s/he is examined.

15-008 APPROVAL OF INITIAL (270 HOURS) EDUCATION FOR LICENSURE; The Board will review coursework as meeting the 270 clock hours of education for initial licensure. Approval will be valid for a maximum of 5 years with the first 5-year period beginning January 1, 2008, and ending December 31, 2012. Education providers desiring to obtain approval for subsequent periods must reapply.

15-008.01 Application Process: The following must be submitted to the Department:

1. A complete application for approval of coursework submitted by the college/university/training institution. The application may be submitted on Attachment G attached to these regulations and incorporated by this reference or an alternate form that contains the same information. The institution must list the course name and course number under the educational area for which they are seeking approval.
2. Official course curricula for each course submitted.
3. Number of academic semester or quarter credit hours for post-secondary education or clock hours for non-post-secondary education.
4. Course objectives and amount of instructional time (clock hours) spent in each course objective.
5. Signature and telephone number of an official of the institution.

If the course title, number or content change the approval is null and void effective the date of the change and a new application for approval is required.

15-008.02 Board Review: The Board will act within 150 days on a completed application. The Board may request additional information before making their decision.

15-008.03 Denied Education: The Department will deny an application for education or will suspend or revoke approval of education on any of the following grounds:

1. Fraud or misrepresentation of information in an application; or
2. Program content fails to meet the requirements of 172 NAC 15-003.01, item 2.

Should the Department deny an application for education, it will send to the applicant by certified mail to the last address of record in the Department a notice setting forth the reasons for the determination. The denial will become final 30 days after the mailing of the notice unless the applicant within such 30-day period gives written notice to the Department of a desire for re-evaluation or for a hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

15-009 RENEWAL PROCEDURES: All licenses issued by the Department pursuant to the Act and these regulations expire on September 1st of each even-numbered year. The Provisional Licensed Alcohol and Drug Counselor can be renewed for a maximum of two renewals upon meeting the renewal requirements of these regulations.

15-009.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements pursuant to 172 NAC 15-012;
2. Pay the renewal fee as prescribed in 172 NAC 16;
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?
These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing 40 hours of Department-approved continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition; and
 - e. If the licensee has been convicted of a felony or misdemeanor:

- (1) Official Court Record, which includes charges and disposition;
- (2) Copies of arrest records;
- (3) A letter from the licensee explaining the nature of the conviction;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- (5) A letter from the probation officer addressing probationary conditions and current status, if the licensee is currently on probation.

15-009.02 First Notice: At least 30 days before September 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last known address as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

15-009.02A The renewal notice will specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 16;
6. The number of continuing education hours required for renewal; and
7. The option to place the license on inactive status.

15-009.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing 40 hours of Department approved continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency and a listing of the continuing competency activities completed; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

15-009.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and

- b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

15-009.02C1 The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

15-009.03 Second Notice: The Department must send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 15-009.01 that specify that:

1. The licensee failed to pay the renewal fee;
2. The license has expired;
3. The licensee is subject to an administrative penalty pursuant to 172 NAC 15-017 if s/he practices after the expiration date;
4. Upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency hours within that time, no order of revocation will be entered; and
5. Upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 15-013.

15-009.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - a. That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing 40 hours of Department-approved continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency and a listing of the continuing competency activities completed; and

6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

15-009.03A1 If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

15-009.03A2 The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

15-009.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

15-009.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department must be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act, and 184 NAC 1, Rules of Practice and Procedure of the Department.

15-009.06 When the licensee has given notification to the Department that s/he desires to have the license be placed on inactive status upon expiration, 172 NAC 15-009.04 and 15-009.05 will not apply.

15-009.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

15-009.08 An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty pursuant to 172 NAC 15-017, or such other action as provided in the statutes and regulations governing the credential.

15-010 AUDIT OF CONTINUING EDUCATION REQUIREMENTS: The Board may select in a random manner a sample of the license renewal applications for audit of continuing education hours. Each licensee is responsible for maintaining in his/her personal files such certificates or records of credit from continuing education activities received from approved providers. A licensee selected for audit must produce documentation of his/her attendance at those continuing education activities listed on his/her renewal application.

15-010.01 Audit Requirements:

1. When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in continuing education activities attested to on the licensee's renewal form. Satisfactory documentation includes, but is not limited to, certifications of attendance, certified attendance rosters, evidence of being a presenter, evidence of research activities, or letters from sponsors of continuing education verifying attendance.
2. The Board reserves the right to audit the continuing education activities of any licensee by notifying the licensee and requesting the licensee to produce within 30 days of mailing documents verifying attendance at continuing education programs.
3. Continuing education activities for which no documentation of attendance is produced will not be included in the calculation of the total number of continuing education hours earned.
4. Failure to comply with the audit will result in non-renewal of the license.

15-011 WAIVER OF CONTINUING EDUCATION REQUIREMENTS: The Department, on the recommendation of the Board, may waive the continuing education requirements, in whole or in part, for any two-year period since the license was last issued when a licensee submits documentation that circumstances beyond his/her control prevented him or her from completing the requirements. The Department must receive this request on or before September 1st of the year the license is subject to renewal.

15-011.01 Waiver Circumstances: The circumstances and documentation required are set forth below. The licensee must:

1. Have been in the service of the regular armed forces of the United States

during any part of the 24 months since his/her license was issued or last renewed;

- a. The licensee must submit official documentation stating dates of service;
2. Have been first licensed in Nebraska within 24 months immediately preceding the license renewal date; or
 3. Have been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours since his/her license was issued or last renewed.
 - a. The licensee must submit a statement from a physician stating that the licensee was injured or ill, the duration of the illness or injury and the recovery period; and that the licensee was unable to attend continuing education activities during that period.

15-011.02 Approval/Denial: The Department, on the recommendation of the Board, may grant or deny an application for exemption from continuing education requirements.

1. Approval: When the Department determines to grant an application for exemption from continuing education requirements, the applicant will be notified within 30 days of receipt of the application.
2. Denial: When the Department determines to deny an application for exemption from continuing education requirements, the Department will send to the applicant by certified mail to the last name and address of record in the Department a notice setting forth the reasons for the denial determination.
 - a. Appeal: The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with 184 NAC 1, Rules of Practice and Procedure of the Department.
 - b. Appeal Results: At the conclusion of the appeal, the Department will issue a final order setting forth the results of the appeal.

15-012 CONTINUING EDUCATION REQUIREMENTS

15-012.01 General Requirements: On or before September 1 of each even number year, each licensee must complete 40 hours of continuing education during the preceding 24-month period. Additional hours earned during this period which are above and beyond the required 40 hours cannot be utilized for subsequent renewals. The same continuing education program may not be completed more than once per biennial renewal period.

15-012.01A Continuing education programs/activities may be offered as follows:

1. College/university coursework;
2. Home study programs;
3. Research;
4. Continuing education programs or presentations; or
5. Presenter of an approved continuing education program.

15-012.01B At least 20 hours of continuing education per biennial renewal period must be alcohol and drug specific. (All 40 hours of continuing education per biennial renewal period may be alcohol and drug specific.) Continuing education hours approved by the Department as outlined in 172 NAC 15-012.02 or presented by or approved by one of the following organizations will be deemed alcohol and drug specific and the hours/credits for the program established will not be altered/changed:

1. Addiction Technology Transfer Centers (ATTC);
2. American Society of Addiction Medicine (ASAM); or
3. National Association of Alcohol and Drug Abuse Counselors (NAADAC).

15-012.01C A licensee may earn up to 20 hours of continuing education per biennial renewal period in activities that may not be alcohol and drug specific but must be approved by the following organizations and the hours/credits for the program established will not be altered/changed:

1. American Counselors Association (ACA) or National Board for Certified Counselors (NBCC);
2. American Medical Association (AMA); Nebraska Medical Association (NMA);
3. American Nurses Credentialing Center's Commission on Accreditation;
4. American Psychological Association (APA);
5. National Association of Social Workers (NASW);
6. American Association of Marriage and Family Therapists (AAMFT); or
7. Nebraska Nurses Association (NNA).

15-012.01D Per biennial renewal period, a licensee may earn :

1. A total of 15 hours of continuing education through home study programs.
2. A total of 10 hours of continuing education through research. This must be a peer review environment by either poster session or publication.
3. A total of 15 hours of continuing education as the presenter of an approved continuing education program. Hours will not be granted for repeat presentations within the same biennial.

15-012.01E Continuing education hours/credits are determined as follows:

1. College/University Coursework:
 - a. 1 semester of academic credit equals 15 continuing education credit hours.
 - b. 1 quarter hour of academic credit equals 10 continuing education credit hours; and
 - c. 1 trimester hour of academic credit equals 14 continuing education credit hours.
2. Continuing Education Programs or Presentations: 60 minutes of participation or presentation equals 1 continuing education hour.

15-012.02 Department Approval of Alcohol and Drug Specific Continuing Education Programs and Home Study Programs

15-012.02A Application Eligibility: Applications for approval of alcohol and drug specific continuing education programs which are not approved by or presented by one of the organizations listed in 172 NAC 15-012.01B must be submitted to the Department for approval.

15-012.02B Approval Criteria: The Department will evaluate applications to determine if approval is to be granted or denied.

15-012.02B1 Approval Criteria for Continuing Education Programs: To be approved, a continuing education program must meet the following criteria:

1. The program must be at least 60 minutes in duration;
2. The program's objectives must relate to the clinical knowledge and skills of the scope of practice of alcohol and drug counseling;
3. The program's content must be at a level which contributes to the development of the clinical knowledge and skills of an alcohol and drug counselor licensed by the Department ;

4. Presenters of programs must be qualified by education, experience or training;
5. Programs must be open to all alcohol and drug counselors licensed by the Department who meet the training and education prerequisites for the program. Employment cannot be considered as a prerequisite; and
6. Program provider must have a process for monitoring and verifying attendance.

15-012.02B2 Approval Criteria for Home Study Programs: To be approved, a home study program must meet the following criteria:

1. The home study program must be at least 3 hours (180 minutes) in duration;
2. The home study program's objectives must relate to the clinical knowledge and skills of the scope of practice of alcohol and drug counseling;
3. The home study program's content must be at a level which contributes to the development of the clinical knowledge and skills of an alcohol and drug counselor licensed by the Department;
4. The home study program provider must be qualified by education, experience, or training;
5. The home study program provider must employ a system to measure knowledge obtained by the licensee completing a home study program such as, but not limited to, a final examination; and
6. The home study program must have a reasonable number of pages of reading material and content, as determined by the Board, to warrant the number of continuing education hours requested.

15-012.02C Application Process: To seek approval of a continuing education program or home study program, the program provider/sponsor/organization must submit an application to the Department. The application may be submitted on Attachment H attached to these regulations and incorporated by this reference or an alternate form which contains the same information.

1. If the program provider/sponsor/organization has not submitted an application to the Department within 30 days prior to the occurrence of a program, a licensed alcohol and drug counselor may submit an application.

2. A licensed alcohol and drug counselor may submit an application if the program is presented outside the State of Nebraska or for a college/university credit course.

Only complete applications will be considered. The applicant may submit such additional documents or information as the applicant may consider relevant to the application.

15-012.02C1 For a continuing education program, the following must be included in the application:

1. Copy of the program agenda indicating actual presentation times, lunch, and breaks;
2. Description of the program content and objectives;
3. Description of the education, experience, and training of each presenter;
4. Number of hours for which approval is requested;
5. Name, address, and telephone number of the person or organization submitting the application;
6. Description of the process the training program provider will use to document and monitor attendance;
7. Date, time, town/city, state, and location of the program;
8. Title of the program and name of presenting organization/person; and
9. Signature of the person submitting the application.

15-012.02C2 For a home study program, the following must be included in the application:

1. Description of the program content and objectives;
2. Description of the education, experience, and training of each presenter;
3. Number of hours for which approval is requested and method by which the hours requested were calculated;
4. Name, address, and telephone number of the person or organization submitting the application;
5. Description of the process the training program provider will use to document and monitor attendance;
6. Title of the program and name of presenting organization/person;
7. Signature of the person submitting the application;
8. Copy of the textbook or other training materials utilized; and
9. Description of how knowledge gained will be measured.

15-012.02D Department Review: The Department will act within 60 days upon all completed applications.

15-012.02E Post-Program Approval: Applications for approval of a continuing education program or home study program may be submitted for approval after the program has occurred.

1. Licensees assume the risk that a program may not be approved when they attend a training program that has not been approved by the Department prior to the program's occurrence.
2. Training that has not been approved 30 days prior to the receipt of a licensee's renewal application will not count towards that licensee's renewal.

15-012.02F Certificate of Completion: Each provider of a Department-approved continuing education program must furnish to each person completing the program a certificate of completion. The certificate must include:

1. Program title;
2. Name of the participant;
3. Date(s) of the training;
4. City, state, and location of the program;
5. Provider's name;
6. Department approval number;
7. Number of hours received by the licensee; and
8. Signature of provider representative.

15-012.02G Program Monitoring: The provider must employ a reliable system to monitor the physical presence of participants throughout the entire program. If a participant chooses not to participate in the entire program, the certificate of attendance must reflect the participant's actual hours of attendance.

1. Providers of Department-approved continuing education who fail to issue certificates of completion to individuals who complete the program or who issue certificates to individuals who do not complete the program may jeopardize Department approval of future training they may sponsor.

15.012.02H Continuing Approval: A continuing education program is approved specifically for the date of the program. If an identical program (same content, agenda, objectives and presenter) is presented again within the biennial renewal period, the provider will not be required to complete the entire application for approval of continuing education. The provider must submit the application completing the program title, date of program, location of program, provider contact information and representative signature, and include a statement that the program is identical to a previously approved program providing the prior approved number.

Once a home study program is approved, re-approval will not be required unless the home study program is changed. If any portion of the home study program is changed, re-application must be made as set out in 172 NAC 15-012.02. Failure to

advise the Department of changes may result in immediate revocation of approval of the home study program and denial of future approval of programs presented by the provider.

15-012.02I Denial of Continuing Education Program: The Department will deny an application for approval of a continuing education program or home study program or will suspend or revoke approval of a program on any of the following grounds:

1. Fraud or misrepresentation of information in an application;
2. Program content or the presenter's qualification fail to meet requirements specified in 172 NAC 15-012.02; or
3. If the program's objectives do not relate to the areas specified in 172 NAC 15-012.02.

If the Department denies an application for a continuing education program or home study program, it will send to the applicant by certified mail to the last address of record in the Department a notice setting forth the reasons for the determination. The denial will become final 30 days after the mailing of the notice unless the applicant within such 30-day period gives written notice to the Department of a desire for re-evaluation or for a hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure for the Department

15-013 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department may revoke a credential when the credential holder fails to meet the renewal requirements.

15-013.01 Revocation for Nonpayment of Renewal Fee or Late Fee, or Failure to Submit Documentation of Continuing Competency within Thirty Days of Expiration of the Credential

15-013.01A When a credential holder fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on inactive status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

15-013.01A1 A post revocation notice will be sent which will specify that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential holder failed to renew the credential or to request that his/her credential be placed on inactive status;
3. The Department has revoked the credential; and
4. The credential holder has a right to request reinstatement of the credential.

15-013.02 Revocation for Failure to Meet Continuing Competency Requirements

15.013.02A When a credential holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

15.013.02A1 The revocation notice for failure to meet continuing competency requirements specifies that:

1. The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive status;
3. The credential has been revoked for failure to meet continuing competency requirements within thirty days after expiration of the credential and that the revocation will become final unless a request for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
4. The credential holder has a right to request reinstatement of the credential after revocation.-

15-014 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

15-014.01 Eligibility

15-014.01A An individual whose credential has been previously:

1. Placed on inactive status;
2. Revoked for failure to meet the renewal requirements;
3. Suspended or limited for disciplinary reasons; or
4. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

15-014.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

15-014.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 15-017, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

15-014.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have his/her credential restored from lapsed to active status by the Department upon proof to the Department that s/he meets the requirements pursuant to 172 NAC 15-004.

15-014.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 15-017;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

15-014.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status;
or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

15-014.02C The Department will act within 150 days on all completed applications.

15-014.02D The applicant will be provided with notice and the opportunity for hearing in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 15-014.02A and 15-014.02B are final.

15-014.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and any other applicable fees; and

2. Attest:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days s/he practiced alcohol and drug counseling in Nebraska since s/he last held an active credential.

15-014.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
 - f. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee and any other applicable fees; and
3. Attestation by applicant:

- a. That s/he has not practiced alcohol and drug counseling in Nebraska since s/he last held an active credential; or
- b. To the actual number of days s/he practiced alcohol and drug counseling in Nebraska since s/he last held an active credential.

15-014.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 15-017;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status;
or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

15-014.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status;
or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

15-014.04C In either event pursuant to 172 NAC 15-014.04A or 15-014.04B, a notice and the opportunity for hearing will be given to the applicant.

15-014.04D The Department will act within 150 days on all completed applications.

15-014.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees; and
2. Attest:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days s/he practiced alcohol and drug counseling in Nebraska since s/he last held an active credential.

15-014.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one

year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - [a] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
 - (f) Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees; and
3. Attestation by the applicant:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days s/he practiced alcohol and drug counseling in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an administrative penalty pursuant to

- 172 NAC 15-017 in which case a notice and opportunity for hearing will be sent to the applicant.
- (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 15-014.06B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

15-014.06A The Board's recommendation to the Department may be to:

1. Reinstatement the credential;
2. Reinstatement the credential with terms, conditions or restrictions; or
3. Deny reinstatement.

15-014.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstatement the credential. An administrative penalty may be assessed pursuant to 172 NAC 15-017 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstatement the credential with terms, conditions, or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 15-017 if warranted; or
 - b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

15-014.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal

- knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked;
2. Meet the renewal requirements, including:
- a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75, and any other applicable fees; and
3. Attest:
- a. That s/he has not practiced alcohol and drug counseling in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days s/he has practiced alcohol and drug counseling in Nebraska since s/he last held an active credential.

15-014.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
- a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number;
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential; and
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;

- [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (c) Disciplinary charges pending against any professional credential held by the petitioner.
- (6) Verification that the continuing competency requirements for renewal have been met.
- 2. The renewal fee, the late fee of \$75 and any other applicable fees; and
- 3. Attestation by the petitioner:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days s/he practiced alcohol and drug counseling in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 15-017 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 15-014.08F.

15-014.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

15-014.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

15-014.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

15-014.08D Prior to any recommendation by the Board against reinstatement of the credential an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

15-014.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

15-014.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

15-014.08F The Board will review the petition to recommend reinstatement and the record of any hearing held and submit its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

15-014.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential; or
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

15-014.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

15-014.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

15-014.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

15-014.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

15-014.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days s/he has practiced alcohol and drug counseling in Nebraska since s/he last held an active credential.

15-014.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:

- (1) Name;
 - (2) Address;
 - (3) Social security number;
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential; and
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
 - (6) Any continuing competency activities;
2. The reinstatement fee of \$75; and
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced alcohol and drug counseling in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days s/he has practiced alcohol and drug counseling in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 15-017 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 15-014.10G.

15-014.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to submit to an alcohol and drug assessment by one or more licensed alcohol and drug counselors appointed by the Board, the petitioner being free also to consult a licensed alcohol and drug counselor(s) of his/her own choice for an alcohol and drug assessment and make available a report thereof to the Board;
4. Require the petitioner to submit to a psychological diagnostic evaluation by one or more psychologists appointed by the Board, the petitioner being free also to consult a psychologist or psychologists of his/her own choice for a psychological diagnostic evaluation and make available a report or reports thereof to the Board;
5. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
6. Require the petitioner to complete additional education.

15-014.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

15-014.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

15-014.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

15-014.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

15-014.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

15-014.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of this petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

15-014.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

15-014.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

15-014.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;

- e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

15-014.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;

- b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

15-014.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

15-014.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

15-014.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

15-014.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;

- c. Social security number; and
- d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Documentation of any continuing competency activities; and
- g. An attestation:
 - (1) That s/he has not practiced alcohol and drug counseling in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days s/he practiced alcohol and drug counseling in Nebraska prior to the voluntary surrender of his/her credential.

15-014.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- 1. Assess an administrative penalty pursuant to 172 NAC 15-017;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or

4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

15-014.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

15-014.11A4 In either event pursuant to 172 NAC 15-014.11A2 or 15-014.11A3, a notice and the opportunity for hearing will be given to the applicant.

15-014.11A5 The Department will act within 150 days on all completed applications.

15-014.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time.

15-014.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.

15-014.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 15-017.

15-014.13 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

15-015 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

15-015.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure as specified in 172 NAC 15-003 through 15-004, or is found to be in violation of any of the grounds listed in 172 NAC 15-015.03.

15-015.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements specified in 172 NAC 15-009 or 15-012, or in 172 NAC 15-015.03.

15-015.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds and those specified in Neb. Rev. Stat. §71-147:

1. Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license, certificate, or registration;
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. §71-172.01;
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession;
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so;
9. Having had his or her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked or having had such license, certificate, or registration disciplined in any other manner in accordance with Neb. Rev. Stat. §71-155 by another state or jurisdiction, based upon acts by the applicant, licensee, certificate holder, or registrant similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence;
10. Unprofessional conduct as defined in 172 NAC 15-016;
11. Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims, concerning the licensee's professional excellence or abilities in

- advertisements;
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
 13. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
 14. Willful or repeated violations of the Uniform Licensing Law or 172 NAC 15;
 15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee is not licensed to practice;
 16. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
 17. Failure to file a report required by Neb. Rev. Stat. §71-168;
 18. When the applicant is found to be not qualified to practice alcohol and drug counseling for which s/he is applying or licensed because of a physical or mental illness or physical or mental deterioration or disability.

A license to practice a profession may also be refused renewal or revoked when the licensee is guilty of practicing the profession while his/her license to do so is suspended or is guilty of practicing the profession in contravention of any limitation placed upon his/her license.

15-016 UNPROFESSIONAL CONDUCT (CODE OF ETHICS): Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of alcohol and drug counseling or the ethics of alcohol and drug counseling, regardless of whether a person, client, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to those specified in Neb. Rev. Stat. § 71-148 and the following:

15-016.01 Competence: An alcohol and drug counselor must not provide services for which s/he is not trained or experienced. This includes but is not limited to:

1. Committing any act which endangers client safety or welfare;
2. Failure to refer or release a client to other professionals or services if that is in the client's best interests;
3. Failure to consider a client as an individual and imposing on the client any stereotypes of behavior, values or roles related to race, disability, appearance, religion, age, gender, intelligence, sexual orientation, national ancestry, or marital, economic, educational or social status;

4. Failure to respect the rights of the client to make his/her own decisions, to participate in any plans made in his/her interest, and to reject services;
5. Failure to assess personal and professional strengths, limitations, biases, and effectiveness on a continuing basis; to strive for self-improvement; and to assume responsibility for professional growth through further education and training; and
6. Failure to follow procedures and policies of the agency/employer to ensure safety of the client.

15-016.02 Confidentiality: A licensee must hold in confidence information obtained from a client, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law. This includes written documentation and oral communications. Commission of any of the following acts or behavior constitutes unprofessional conduct:

1. Violating 42 CFR Part 2 or other federal or state statutes;
2. Releasing client information without a signed release except where otherwise allowed by law; and
3. Releasing client identifying data without a signed release and where another party would be able to recognize the identity of the client except where otherwise allowed by law.

15-016.03 Professional Relationships: A licensee must safeguard the welfare of clients and maintain professional relationships with clients. Commission of any of the following acts or behaviors constitutes unprofessional conduct:

1. Exploiting another person for one's own advantage;
2. Performing or agreeing to perform alcohol and drug counseling services when the services are known to be contraindicated or unjustified;
3. Performing or agreeing to perform procedures when the procedures are known to be outside the alcohol and drug counseling scope of practice;
4. Verbally or physically abusing clients;
5. Attempting to provide diagnostic or treatment information to client(s) that is beyond the licensee's level of education, training, and expertise;
6. Delegating to other personnel those client-related services for which the clinical skills and expertise of a licensee are required;
7. Failure to safeguard the client's dignity and right to privacy; and

8. Permitting, aiding or abetting the performance of activities requiring a license or certificate by a person not licensed or certified to do so or in contravention of any other statute or regulation.

15-016.04 Sexual Harassment: A licensee must not under any circumstances engage in sexual harassment of clients.

1. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which may result in but does not have to result in:
 - a. Providing or denying care to a client;
 - b. Creating an intimidating, hostile, or offensive environment for the client;
or
 - c. Interfering with a client's ability to recover.

15-016.05 Dual Relationship: Licensees must make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, licensees must take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Examples of dual relationships include, but are not limited to, business or personal relationships with a client.

In the therapeutic relationship, licensees are aware of the intimacy and responsibilities inherent in the therapeutic relationship and must avoid actions that seek to meet their personal needs at the expense of the client. Licensees are aware of their influential positions with respect to clients and must avoid exploiting the trust and dependency of such persons. Licensees, therefore, must make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. Commission of any of the following acts or behavior constitutes unprofessional conduct:

1. Entering into a professional counseling relationship with family members, with friends or with other persons closely connected to the licensee, or with an individual the licensee currently has or previously had a personal, sexually intimate, dating, or romantic relationship.
2. Developing a business or personal relationship with a client during the provision of professional services or within 2 years following the termination of professional services. This includes hiring ex-clients or serving as a practical training supervisor or clinical supervisor of ex-clients pursuant to these regulations within the 2-year time period.
3. Developing a sexually intimate, dating, or romantic relationship with a client during the provision of professional services or within 5 years following the termination of professional services.

- a. Sexually intimate means any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. Sexually intimate may or may not mean sexual contact.

(1) Sexual contact is defined as sexual intercourse, either genital or anal, cunnilingus, fellatio, sodomy, or the handling of breasts, genital areas, buttocks or thighs, whether clothed or unclothed, initiated or consented to by licensee.

15-016.06 Other:

1. Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee.
2. Falsification or unauthorized destruction of client records.
3. Failure to keep and maintain adequate records of counseling and treatment services.
4. Division of fees or agreeing to split or divide fees received for professional services with any person for bringing or referring a client.
5. Obtaining any fee for professional services by fraud, deceit, or misrepresentation including, but not limited to, falsification of third party claim documents.
6. Cheating on or attempting to subvert the licensure examinations.
7. The use of any letters, words or terms, either as a prefix, affix, or suffix, on stationery, in advertisements or otherwise, indicating that such person is entitled to practice a system or mode of healing for which s/he is not licensed.
8. Making use of any advertising statements of a character tending to deceive or mislead the public.
9. Advertising or professing professional superiority or the performance of professional services in a superior manner.
10. Violating an assurance of compliance entered into under Neb. Rev. Stat. §71-171.02.
11. The commission of any act of sexual abuse, misconduct, or exploitation related to the practice of alcohol and drug counseling.

12. Using undue influence to entice clients to commit actions that are emotionally, physically, or financially detrimental.
13. The use of any sexual conduct which clearly demonstrates an intent to entice clients to commit actions that may cause present or future emotional or financial harm to the client.
14. Knowingly assisting another in procuring or attempting to procure licensure or licensure renewal using fraud, forgery, or falsification or misrepresentation of material facts.
15. Refusal of an applicant for licensure or a licensee to submit to a physical, mental, or alcohol and drug assessment/evaluation requested by the Department to determine qualifications to practice or to continue to practice alcohol and drug counseling and to provide the results to the Department.
16. Failure to maintain a minimum level of competence in the practice of alcohol and drug counseling.
17. Failure to adhere to the standards of acceptable and prevailing practice in alcohol and drug counseling.
18. Practicing alcohol and drug counseling while an individual's license is revoked, suspended, or in violation of any limitation placed upon the license.
19. Practicing alcohol and drug counseling while an individual's license is on inactive status.
20. Rendering services as a Provisional Alcohol and Drug Counselor without clinical supervision as set out in 172 NAC 15-003.03 and 172 NAC 15-004.01, items 3e and 3f.
21. Failure of a Provisional Alcohol and Drug Counselor to inform all clients that s/he holds a provisional license and is practicing under supervision and to inform the clients of the name of the clinical supervisor.
22. Failure to refrain from any activity, including the misuse and/or abuse of legal or illegal mood-altering chemicals and/or alcohol, where personal or professional conduct is likely to compromise the fulfillment of professional responsibilities, denigrate the professional in general, or negatively affect a licensee's responsibility to provide a positive role model.
23. Using alcohol or other drugs to the point where there is interference with the performance of or credibility of professional services provided.

15-017 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practiced without a license. Practice without a license for the purpose of this regulation means practice:

1. Prior to the issuance of a license;
2. Following the expiration of a license; or
3. Prior to the reinstatement of a license.

15-017.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

15-017.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property; and
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

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12/12/2007

Nebraska Department of
Health and Human Services

172 NAC 15

15-017.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and 184 NAC 1, Rules of Practice and Procedure before the Department.

These regulations repeal and recodify 209 NAC 1, 2, 3, 4, 5, 6 and 7 to 172 NAC 15.

Approved by the Attorney General:	November 5, 2007
Approved by the Governor:	December 7, 2007
Filed with the Secretary of State:	December 7, 2007

EFFECTIVE DATE: **December 12, 2007**

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 16 FEES RELATING TO ALCOHOL AND DRUG COUNSELORS

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Effective Date
September 25, 2006

Nebraska Department of Health and Human
Services Regulation and Licensure

172 NAC 16

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 16 FEES RELATING TO ALCOHOL AND DRUG COUNSELORS

16-001 Scope and Authority: These regulations apply to licensure of alcohol and drug counselors as defined by Neb. Rev. Stat. §71-1,351 to 71-1,361 and the Uniform Licensing Law.

16-002 SCHEDULE OF FEES: The following fees have been set by the Board and the Department:

16-002.01 Initial or Reciprocity License Fee: By an applicant for a license to practice

1. Licensed Alcohol and Drug Counselor, the fee of \$100 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.
2. Provisionally Licensed Alcohol and Drug Counselor, the fee of \$100.

16-002.02 Pro-rated Initial or Reciprocity License Fee: For issuance of a license or provisional license to practice that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.

16-002.03 License Renewal Fee: By an applicant for renewal on a biennial basis of a license:

1. Licensed Alcohol and Drug Counselor, the fee of \$100 and the Licensee Assistance Program fee of \$2.
2. For a LADC who renewed on September 1, 2005, and needs to renew again on September 1, 2006, the fee of \$50 and the Licensee Assistance Program fee of \$2.
3. Provisionally Licensed Alcohol and Drug Counselor, the fee of \$100.
4. For a PLADC who renewed September 1, 2005, and needs to renew again on September 1, 2006, the fee of \$50.

16-002.04 Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.

16-002.05 Renewal Late Fee: By an applicant for renewal on a biennial basis of a credential, who fails to pay the renewal fee on or before the expiration date of his/her credential, the fee of \$25 as a late fee in addition to the renewal fee.

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16-002.06 Certification of License Fee: For issuance of a certification of a credential, the fee of \$25. The certification includes information regarding:

1. The basis on which a credential was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the credential; and
4. The current status of the credential.

16-002.07 Verification of License Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.

16-002.08 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

16-002.09 Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the credentialing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

16-002.10 Reinstatement Late Fee: For reinstatement of a credential for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

16-002.11 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.

16-002.12 Examination Fees:

1. Written examination, the fee of \$100.
2. Oral examination, the fee of \$100.

Approved by the Attorney General: 8/17/06
Approved by the Governor: 9/20/06
Filed with the Secretary of State: 9/20/06

EFFECTIVE DATE: 9/25/06

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August 25, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 17

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 17 LICENSURE OF ATHLETIC TRAINERS

17-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of athletic trainers under Neb. Rev. Stat. §§ 38-401 to 38-414 and the Uniform Credentialing Act (UCA).

17-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 38-401 to 38-414, known as the Athletic Training Practice Act.

Accredited College or University means a college or university which is accredited by North Central Association of Colleges and Schools or a comparable regional accrediting body or one whose athletic training curriculum is accredited by the Commission on Accreditation in Athletic Training Education in conjunction with the Council for Higher Education Accreditation.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Anghoff Method means a method of determining passing scores based on aggregate information obtained by having judges predict the probability that a hypothetical minimally competent candidate will correctly answer items in a test.

Athletic Injuries means the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation.

Athletic Trainer means a person who is responsible for the prevention, emergency care, first-aid, treatment, and rehabilitation of athletic injuries under guidelines established with a licensed physician and who is licensed to perform the functions set out in Neb. Rev. Stat. § 38-408. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in Neb. Rev. Stat. §38-408 with a referral from a licensed physician for athletic training.

Athletic Training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in Neb. Rev. Stat. § 38-408.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Authorized physical modalities means:

1. Athletic trainers are authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a licensed physician:
 - a. Application of electrotherapy;
 - b. Application of ultrasound;
 - c. Use of medical diathermies;
 - d. Application of infrared light; and
 - e. Application of ultraviolet light.
2. The application of heat, cold, air, water, or exercise is not restricted by the Athletic Training Practice Act.

Board means the Board of Athletic Training.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing education activity means the various methods in which a licensee can obtain the necessary continuing education for license renewal.

Continuing education hours means the number of actual clock hours spent in direct participation in a structured education format.

1. One academic semester hour is equal to 15 contact hours. A three credit hour course provides 45 contact hours of continuing education credit.
2. One academic quarter hour is equal to ten contact hours. A three credit hour course provides 30 contact hours of continuing education credit.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Graduate student means an individual who is enrolled in an accredited graduate athletic training program in an accredited college or university.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensure Examination means the Examination administered by the Board of Certification for the Athletic Trainer (BOC).

Military service means full-time duty in the active military service of the United States, or a National

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NEBRASKA DEPARTMENT OF
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172 NAC 17

Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 17.

Official means issued by and under the original seal of the issuing agency.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Refereed means both the editor and one or more specialists in the field examine all manuscripts.

Served in the regular armed forces has the same meaning as "military service" in these regulations.

Student Athletic Trainer means a person who is practicing athletic training under the supervision of an athletic trainer approved by the Board in an educational institution, professional athletic organization, or an amateur athletic organization.

Supervision means a supervising athletic trainer must be physically present and immediately available and have the ability to intervene on behalf of the student athletic trainer/graduate student and patient.

17-003 INITIAL CREDENTIAL

17-003.01 Qualifications: To receive a credential to practice athletic training, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education:
 - a. Have graduated after successful completion of the athletic training curriculum requirements of an accredited college or university as defined in 172 NAC 17-002; or
 - b. Have graduated with a four-year degree from an accredited college or university and completion of at least two consecutive years as a student athletic trainer, military duty excepted, under the supervision

of an athletic trainer approved by the Board. In order for the supervising trainer to be approved by the Board, the trainer must have been overseen under the supervision of an athletic trainer who was licensed in Nebraska or an athletic trainer in another state who met Nebraska licensure requirements at the time the student athletic training was performed;

4. Student Athletic Training:
 - a. Occurred at an educational institution, professional athletic organization, or an amateur athletic organization where the supervising athletic trainer and student athletic trainer were performing athletic training activities;
 - b. Included the daily personal contact of the supervising athletic trainer at the site where the student athletic trainer was performing athletic training activities; and
 - c. Required that the supervising athletic trainer completed regular evaluations of the student athletic trainer's performance to include review of physical modalities to assure the proper techniques were being utilized.
5. Examination: Have passed the licensure examination with a passing score as determined by using the Anghoff Method.

17-003.01A Passed Licensure Examination But Is Not Practicing. An applicant who has met the education, and examination requirements as specified in 172 NAC 17-003.01 items 3 and 4, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure, must present proof to the Department, that s/he has within the three years immediately preceding the application for licensure:

1. Completed 25 hours of continuing education pursuant to 172 NAC 17-004; and
2. Holds a current cardiopulmonary (CPR) certificate from a nationally recognized organization that issues the certificates; or
3. Holds a current certification from the Board of Certification for Athletic Trainers (BOC); or
4. Has retaken and passed the licensure examination with a passing score determined by using the Anghoff method.

17-003.01B Licensed in Another Jurisdiction But Is Not Practicing. An applicant who has met the standards for licensure pursuant to 172 NAC 17-003.01 based on a license in another jurisdiction and who is not practicing at the time of application for licensure, must present proof to the Department that s/he has within the three years immediately preceding the application for licensure:

1. Completed 25 hours of continuing education pursuant to 172 NAC 17-004; and
2. Holds a current cardiopulmonary (CPR) certificate from a nationally recognized organization that issues these certificates; or
3. Holds a current certification from the Board of Certification for Athletic Trainers (BOC); or
4. Has retaken and passed the licensure examination with a passing score determined by using the Anghoff method.

17-003.02 Application: To apply for a credential to practice athletic training, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number;Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - b. Student Athletic Training: If applicable, the applicant must state:
 - (1) Dates of training;
 - (2) Name of institution or organization where training occurred;
 - (3) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information) of institution or organization;
 - (4) Name of supervising athletic trainer; and
 - (5) The work responsibilities as a student;
 - c. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced athletic training in Nebraska before submitting the application; or
 - (2) If s/he has practiced athletic training in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
 - d. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 17-006 or if an act(s) was committed, provide an explanation of all such acts; and

- (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the

- convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record) with visa status;
- e. Documentation of education, including:
- (1) Name and date of degree awarded; and
 - (2) Name of school, college, university that awarded the degree.
- f. Documentation of examination, including:
- (1) Name of examination;
 - (2) Date of examination; and

- (3) Score received; and
 - g. Documentation that the applicant:
 - (1) Requested that the examination score be sent directly to the Department from the appropriate examination service or State Board Office;
 - (2) Requested that an official transcript of completion of an athletic training curriculum or transcript of a bachelor's degree be sent to the Department.
 - (3) Met the requirements listed in 172 NAC 17-003.01A or 172 NAC 17-003.01B, if applicable;
 - (4) Submitted any other documentation as requested by the Board/Department; and
 - h. Verification from the Supervising Athletic Trainer, if applicable, that s/he:
 - (1) Supervised applicant and provided beginning and ending dates of supervision;
 - (2) Has a license as an athletic trainer in Nebraska; or
 - (3) Has passed the licensing examination; and
 - (4) Was present at the site where the student athletic trainer was performing athletic training; and
 - (5) Completed regular evaluations of the student athletic trainer's performance.
 - i. Documentation of licensure in another jurisdiction, including:
 - (1) Certification from the other jurisdiction(s) verifying licensure, including:
 - (a) Date of initial licensure;
 - (b) The name of the examination on which licensure was based;
 - (c) The score received on the examination;
 - (d) Date of the examination;
 - (e) Name of accredited program that the applicant presented a transcript from;
 - (f) The nature of disciplinary actions, if any, taken against the applicant's credential; and
 - (2) The dates and locations of practice prior to the date of the application.
 - j. Documentation of continuing competency if not practicing: Submit certificates of attendance verifying the 25 hours of continuing education pursuant to 172 NAC 17-004; or
 - k. Documentation of continuing competency if licensed in another jurisdiction but not practicing: Submit certificates of attendance verifying the 25 hours of continuing education pursuant to 172 NAC 17-004; and
- 3. Fee: The applicant must submit the required license fee according to 172 NAC 2, along with the application and all required documentation.

17-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department

will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

17-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

17-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 17-006, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

17-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

17-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 17-009 or such other action as provided in the statutes and regulations governing the credential.

17-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

17-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

17-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

17-004 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 17-005.03 and 172 NAC 17-005.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

17-004.01 General Requirements for Licensure: On or before May 1 of each odd numbered year each athletic trainer who has an active license must:

1. Provide proof of current certification from the National Athletic Trainers

2. Association Board of Certification (NATABOC); or
3. Complete 25 hours of continuing education during the preceding 24 month period; and
4. Hold a current cardiopulmonary (CPR) certificate from a nationally recognized organization that issues CPR certificates; and
5. Be responsible for maintaining until the next renewal period:
 - a. Documentation of attendance at, or participation in, continuing education programs/activities.
Documentation must include:
 - (1) Signed certificate; and
 - (2) Course brochure or course outline; and/or
 - (3) Other requested documentation pursuant to 172 NAC 17-004.01D, items 3, 6, 7, and 8; or
 - (4) Copy of current NATABOC certification card;
 - b. If the licensee is presenting a program, documentation of the continuing education program. Documentation must include:
 - (1) Course outline;
 - (2) Course brochure; and
 - (3) Statement of instructor's qualifications to teach the course, unless the qualifications are included in the brochure; or
6. When applicable, submit an application for waiver of the continuing competency requirements pursuant to 172 NAC 17-005.03 and 17-005.04.

17-004.01A Acceptable Continuing Education Program/Activity: The Board does not pre-approve continuing education but will accept as continuing education for renewal, continuing education programs specified in 172 NAC 17-004.01C. The Board retains final authority for acceptance of any educational program/activity submitted by the licensee to meet the continuing competency requirement. In order for a continuing education activity to be accepted for renewal or reinstatement of a license, the continuing education program/activity must relate to the practice of athletic training and must be open to all licensees.

17-004.01B It is the licensee's responsibility to attend or participate in continuing education programs/activities which meet the guidelines pursuant to 172 NAC 23-004.01D. Renewal of a license will be contingent upon the licensee fulfilling the continuing competency requirement and maintaining documentation for a possible audit. The continuing education program/activity must focus on one of the following performance domains:

1. Prevention;
2. Recognition;
3. Evaluation and assessment;
4. Immediate care;
5. Treatment;
6. Rehabilitation and reconditioning;
7. Organization and administration; and/or
8. Professional development and responsibility.

17-004.01C A continuing education activity, except formal and informal self-study

and participation in research, will be acceptable when:

1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the licensee;
2. The objectives of the continuing education activity relate to the practice of athletic training;
3. It has a date, location, course title, number of contact hours, certificate of attendance and is open to all licensees; and
4. The instructor has specialized experience or training to meet the course objectives; and

17.004.01D Continuing Education Program/Activity: The following is a list of acceptable continuing education programs/activities and the required documentation specified for each. One hour credit will be awarded for each 60 minutes of attendance. Each program/activity must be at least 60 minutes in length. Credit will not be awarded for breaks or meals.

1. Programs at State and National association meetings (for example, a meeting of Nebraska or other state athletic training associations and/or the National Athletic Trainers Association). Documentation must include:
 - a. Certificate of attendance; and
 - b. Program outline and/or objectives;
2. Workshops, seminars, and/or conferences, including monitored videotapes and in-service programs, where the content of the continuing education program/activity relates to athletic training where the subject is in one of the performance domains listed in 172 NAC 17-004.01B, items 1-8. Documentation must include:
 - a. Certificate of attendance; and a
 - b. Program outline and/or objectives;
3. University or college sponsored courses where the content of the course relates to athletic training. The subject does not have to be one of the performance domains listed in 172 NAC 17-004.01B, items 1-8. A licensee must provide documentation of successfully completing the course. Documentation must include:
 - a. An official transcript; and a
 - b. Program outline and/or objectives;
4. Formal self-study where the content of the self-study activity relates to athletic training. The subject does not have to be one of the performance domains listed in 172 NAC 17-004.01B items 1-8 for example, video tapes, internet courses, and correspondence courses. The self-study program must have a testing mechanism scored by the formal self-study provider. Licensees may complete a maximum of 12 hours of continuing education by formal self-study each renewal period;
Documentation must include:
 - a. Certificate of completion; and a
 - b. Program outline and/or objectives.
5. Professional development courses which pertain to the practice of

- athletic training. An athletic trainer may complete a maximum of ten hours of continuing education utilizing professional development courses each renewal period. Documentation must include:
- a. Certificate of attendance; and
 - b. Program outline and/or objectives.
6. Participation in research or other scholarly activities that result in professional publication or acceptance for publication that relates to athletic training and is intended for an audience of health care professionals. Licensees may earn up to a maximum of ten contact hours of continuing education each renewal period for:
- a. Primary author of an article in a non-refereed journal. Five hours may be earned per article. Required documentation must include a copy of the article;
 - b. Primary or secondary author of an article in a refereed journal. Ten hours may be earned per article. Required documentation must include a copy of the article;
 - c. Primary, secondary or contributing author of a published textbook. Ten hours may be earned per book. Required documentation must include a copy of the title page;
 - d. Primary or secondary author of a poster presentation. Five hours may be earned per presentation. Required documentation must include a letter of acknowledgement;
 - e. Primary author of a home study course. Five hours may be earned per course. Required documentation must include a letter of approval.
7. Informal self-study: A licensee may earn up to a maximum of two contact hours of continuing education each renewal period for completion of the following activities or a combination of activities:
- a. Reading articles related to athletic training practice; and
 - b. Viewing videotapes without a monitor.
- Documentation must include:
- (1) The name of the article, book, or videotape; and
 - (2) A brief synopsis of what was learned.
8. Scientific Presentation: A licensee acting as an essayist or a lecturer to athletic trainers or other credentialed health care professionals will be awarded one hour credit for each hour of scientific presentation at workshops, seminars, in-service training, conferences, or guest lectures if the program/activity relates to the practice of athletic training. A licensee may receive continuing education credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program. A licensee may complete a maximum of four hours of continuing education credit for presentations in a renewal period. Documentation must include:
- a. Program brochure that includes the licensee's name as presenter; and
 - b. Continuing competency course outline and/or objectives. and
 - c. Statement of instructor's qualification to teach the course, unless the qualifications are included in the brochure.

17-004.01E Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the content does not relate to athletic training even if the subject is one of the performance domains listed in 172 NAC 004.01B, items 1 - 8 and include, but are not limited to:

1. Medical terminology courses;
2. Athletic training daily activities including:
 - a. Activities included with contract employment;
 - b. Supervision of student athletic trainers;
 - c. Training room responsibilities; and
 - d. Observation of other athletic trainers; or
3. Athletic training orientation programs/activities that include new policies, procedures, equipment, forms, responsibilities, and services.

17-005 RENEWAL: An individual who wants to renew his/her athletic training credential must request renewal as specified in 172 NAC 17-005.02. All athletic training credentials issued by the Department will expire on May 1, of each odd-numbered year.

17-005.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

17-005.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number;Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - b. May provide the following information about him/herself:

- (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 17-004 or has requested a waiver if s/he meets the requirements of 172 NAC 17-005.03 and/or 172 NAC 17-005.04;
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 17-006.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy of:
 - (1) A Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor, since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:

- (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and
3. The renewal fee according to 172 NAC 2.

17-005.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 17-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

17-005.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

17-005.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances include proof that the credential holder was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date.

17-005.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must

produce documentation of the continuing competency activities.

17-005.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

17-005.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

17-005.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes:

1. Copies of certificates of attendance or participation in a continuing education activity; and
2. Course outline and/or objectives; or
3. Letters documenting attendance from providers; or
4. Copies of transcripts from educational institutions; or
5. Copy of the current BOC certification card; or
6. Other documentation pursuant to 172 NAC 17-004.01D, number 6, items a-e, and 172 NAC 17-004.01D, item 7.

17-005.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

17-005.05E The Department/Board will notify the credential holder upon satisfactory completion of the audit.

17-005.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

17-005.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

17-005.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

17-005.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

17-005.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

17-005.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

17-005.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

17-005.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

17-005.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice athletic training terminates.

17-005.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 17-009 or such other action as provided in the statutes and regulations governing the credential.

17-005.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of athletic training after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 17-008.

17-005.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

17-005.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

17-005.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of athletic training, but may represent him/herself as having an inactive credential.

17-005.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 17-008.

17-006 DISCIPLINARY ACTIONS

17-006.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently;
 - b. Beyond its authorized scope;
 - c. With gross incompetence or gross negligence; or
 - d. In a pattern of incompetent or negligent conduct.
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 17-006.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations

- relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
 17. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
 18. Failure to maintain the requirements necessary to obtain a credential;
 19. Violation of an order issued by the Department;
 20. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
 21. Failure to pay an administrative penalty; and/or
 22. Unprofessional conduct as defined in 172 NAC 17-006.02.

17-006.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Knowingly disclosing confidential information except as otherwise permitted by law;
8. Failure to safeguard the consumer's dignity and right to privacy;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
12. Disruptive behavior, whether verbal or physical, which interferes with

- consumer care or could reasonably be expected to interfere with the care;
13. Competence: Providing services for which the athletic trainer is not trained or experienced. Unprofessional conduct in the practice of athletic training includes, but is not limited to, performing or agreeing to perform procedures when the procedures are known to be a departure from standard or acceptable and prevailing practice in athletic training, but not to include a single act of ordinary negligence;
 14. Committing any act which endangers public safety or welfare;
 15. Confidentiality: Failure to hold in confidence information obtained from a client except otherwise required by law;
 16. Professional Relationships: Failure to safeguard the welfare of the public and maintain professional relationships with clients. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - a. Exploiting a client for financial gain or sexual favors;
 - b. Performing or agreeing to perform athletic training services that have been requested when the services are known to be contraindicated or unjustified;
 - c. Performing or agreeing to perform procedures that have been requested when the procedures are known to be outside of the athletic trainer's scope of practice;
 - d. Verbally or physically abusing clients;
 - e. Falsification or unauthorized destruction of client records;
 - f. Delegating to other personnel those services for which the clinical skills and expertise of an athletic trainer are required;
 - g. Encouraging or promoting the practice of athletic training by untrained or unqualified persons;
 - h. Filing a false report or record in the practice of athletic training including, but not limited to, collecting a fee;
 - i. Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from the services, devices, appliances, or products;
 - j. Providing services except in a professional relationship; and
 - k. Discriminating in the provision of services to individuals on the basis of gender, race, religion, or national origin.
 17. Sexual Harassment: Engaging in sexual misconduct which is defined as sexual harassment of clients. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
 - a. Providing or denying service to a client;
 - b. Creating an intimidating, hostile, or offensive environment for the client; or
 - c. Providing favorable reports for sexual favors.
 18. Failure to follow policies or procedures implemented in the practice situation to safeguard the public;
 19. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of an athletic trainer;
 20. Failure to report suspected cases of child abuse or vulnerable adult abuse pursuant to Neb. Rev. Stat. §§ 28-717 and 28-384;

21. Practicing the profession of athletic training while his/her license is suspended or in contravention of any limitation placed upon his/her license;
22. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination requested by the Board, pursuant to Neb. Rev. Stat. § 38-1,112 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed;
23. Failure to make credential available upon request: Every person credentialed under the Uniform Credentialing Act must make the person's current credential available upon request. All signs, announcements, stationery, and advertisements of persons credentialed under the act shall identify the profession or business for which the credential is held; and/or
24. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents.

17-006.03 Temporary Suspension or Limitation

17-006.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 17-006.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

17-006.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

17-006.03C A temporary suspension or temporary limitation of a credential under 172 NAC 17-006.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

17-006.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

17-006.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;

3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

17-006.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 17-006.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

17-007 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

17-007.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

17-007.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

17-007.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

17-007.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

17-007.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

17-007.06 Reinstatement following voluntary surrender is set out in 172 NAC 17-008.

17-008 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status,

- voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
 3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
 4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

17-008.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter:

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
 - d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in

172 NAC 17-004 within the 24 months immediately preceding submission of the application;

- (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
- (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 17-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
- (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
- (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee(s): The following fee(s):

- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
- b. If the credential was voluntarily surrendered, the renewal fee.

17-008.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

17-008.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

17-008.01C The Department will act within 150 days on all completed applications.

17-008.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

17-008.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 17-008.01.

17-008.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director. The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence and/or immigration status which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
 - d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in

- 172 NAC 17-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
- (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 17-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee: The renewal fee.

17-008.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

17-008.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

17-008.03C On the basis of the written application, materials submitted by that applicant, and the information obtained under 172 NAC 17-008.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 17-009, in which case a separate notice of opportunity for hearing will be sent to the applicant.

17-008.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

17-008.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

17-008.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstatement of the credential subject to limitation or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or

recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.

2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

17-008.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

17-008.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

17-008.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

17-009 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

17-009.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

17-009.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.

Effective Date
August 25, 2012

NEBRASKA DEPARTMENT OF
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172 NAC 17

2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

17-009.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

17-010 METHOD OF IDENTIFICATION: Every person credentialed as an athletic trainer shall make his/her current credential available upon request. The method of identification shall be clear and easily accessed and used by the consumer. Identification may be done by the following methods: verbally; through signage; and/or written medium. All signs, announcements, stationery, and advertisements of athletic trainers shall identify the profession. The initials AT and ATC are acceptable identifiers.

17-011 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

These amended rules and regulations replace Title 172 NAC 17 Regulations Governing the Practice of Athletic Training, effective October 10, 2004.

Approved by Attorney General: July 23, 2012
Approved by Governor: August 20, 2012
Filed with Secretary of State: August 20, 2012
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Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

Nebraska Department of Health and Human Services
Division of Public Health
Licensure Unit
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STATE OF NEBRASKA

Statutes, Rules and Regulations

Relating to:

AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

TITLE 172 NAC 23



**Division of Public Health
Licensure Unit**

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Effective Date: November 6, 2010

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November 6, 2010

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 23

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 23 LICENSURE OF AUDIOLOGISTS AND SPEECH-LANGUAGE
PATHOLOGISTS

23-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of an audiologist or speech-language pathologist under Neb. Rev. Stat. §§ 38-501 to 38-527 and the Uniform Credentialing Act (UCA).

Exemptions: Nothing in the Audiology and Speech-Language Pathology Practice Act shall be construed to prevent or restrict:

1. The practice of audiology or speech-language pathology or the use of the official title of such practice by a person employed as a speech-language pathologist or audiologist by the federal government;
2. A physician from engaging in the practice of medicine and surgery or any individual from carrying out any properly delegated responsibilities within the normal practice of medicine and surgery under the supervision of a physician;
3. A person licensed as a hearing instrument specialist in this state from engaging in the fitting, selling, and servicing of hearing instruments or performing such other duties as defined in the Hearing Instrument Specialists Practice Act;
4. The practice of audiology or speech-language pathology or the use of the official title of such practice by a person who holds a valid and current credential as a speech-language pathologist or audiologist issued by the State Department of Education, if such person performs speech-language pathology or audiology services solely as a part of his or her duties within an agency, institution, or organization for which no fee is paid directly or indirectly by the recipient of such service and under the jurisdiction of the State Department of Education, but such person may elect to be within the jurisdiction of the Audiology and Speech-Language Pathology Practice Act;
5. The clinical practice in audiology or speech-language pathology required for students enrolled in an accredited college or university pursuing a major in audiology or speech-language pathology, if such clinical practices are supervised by a person licensed to practice audiology or speech-language pathology and if the student is designated by a title such as student clinician or other title clearly indicating the training status; or
6. The utilization of a speech aide or other personnel employed by a public school, educational service unit, or other private or public educational institution working under the direct supervision of a credentialed speech-language pathologist.

23-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 38-501 to 38-527 known as the Audiology and Speech-Language Pathology Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to

clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved Academic Program means a program that has been accredited by the Council Academic Accreditation in Audiology and Speech-Language Pathology (CAA) or a nationally recognized equivalent accreditation association approved by the Board.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Audiologist means an individual who practices audiology and who presents him/herself to the public by any title or description of services incorporating the words audiologist, hearing clinician, or hearing therapist or any similar title or description of services.

Board means the Board of Audiology and Speech-Language Pathology.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing Competency means the offering of instruction or information to licensees for the purpose of maintaining skills necessary for the safe and competent practice of audiology or speech-language pathology. The continuing competency may be offered under such names as scientific school, clinic, forum, lecture, course of study, educational seminar, internet courses, correspondence courses, video conferencing, videotapes, and DVD's.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Dysphagia means disorders of swallowing.

Evidence of Residency means proof of living within the boundaries of Nebraska, (for example, home address, car registration, voter registration).

Hour means 60 minutes.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensure Examination means the Praxis Series Specialty Tests in Speech-Language Pathology and Audiology approved by the Department on the recommendation of the Board and administered by the Educational Testing Service.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 23.

Nationwide Professional Accrediting Organization means the American Speech-Language-Hearing Association or equivalent.

Official means issued by and under the original seal of the educational institution.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Practice of Audiology means the application of evidence-based practice in clinical decision making for the prevention, assessment, habilitation, rehabilitation, and maintenance of persons with hearing, auditory function, and vestibular function impairments and related impairments, including:

1. Cerumen removal from the cartilaginous outer one-third portion of the external auditory canal when the presence of cerumen may affect the accuracy of hearing evaluations or impressions of the ear canal for amplification devices; and
2. Evaluation, selection, fitting, and dispensing of hearing instruments, external processors of implantable hearing instruments, and assistive technology devices as part of a comprehensive audiological rehabilitation program.

Practice of audiology does not include the practice of medical diagnosis, medical treatment, or surgery.

Practice of Speech-Language Pathology means the application of principles and methods associated with the development and disorders of human communication skills and with dysphagia, which principles and methods include screening, assessment, evaluation, treatment, prevention, consultation, and restorative modalities for speech, voice, language, language-based learning, hearing, swallowing, or other upper aerodigestive functions for the purpose of improving quality of life by reducing impairments of body functions and structures, activity limitations, participation restrictions, and environmental barriers.

Practice of speech-language pathology does not include the practice of medical diagnosis, medical treatment, or surgery.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Professional Experience means at least 36 weeks of full time professional experience of 35 clock hours per week or 72 weeks of at least half time professional experience with 15 to 19 hours per week in speech-language pathology or audiology supervised in the area in which licensure is sought.

Provider means an individual or sponsoring organization that presents continuing education programs to licensees.

Scaled Score means qualitative interpretative score which is a function of performance.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

Speech-Language Pathologist means an individual who presents him/herself to the public by any title or description of services incorporating the words speech-language pathologist, speech therapist, speech correctionist, speech clinician, language pathologist, language therapist, language clinician, logopedist, communicologist, aphasiologist, aphasia therapist, voice pathologist, voice therapist, voice clinician, phoniatriest, or any similar title, term, or description of services.

23-003 INITIAL CREDENTIAL

23-003.01 Qualifications: To receive a credential to practice audiology or speech-language pathology, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States.
3. Education: Have a degree from an approved academic program in audiology or speech-language pathology as follows:
 - a. An audiologist graduating prior to September 1, 2007 must present proof of a master’s degree or a doctoral degree, or the equivalent of a master’s degree or doctoral degree in audiology;
 - b. An audiologist graduating on or after September 1, 2007 must present proof of a doctoral degree or its equivalent in audiology; or
 - c. A speech-language pathologist must present proof of a master’s degree, doctoral degree, or the equivalent of a master’s degree or doctoral degree in speech-language pathology;
4. Examination: Have passed the licensure examination with a scaled score of 600 or above.
5. Experience: Have completed the Professional Experience. The Professional Experience must include:
 - a. Supervision in the area in which licensure is sought by:
 - (1) An audiologist or speech-language pathologist who holds a valid Nebraska license or who meets Nebraska requirements for licensure; or
 - (2) An audiologist or speech-language pathologist who holds certification from the American Speech-Language-Hearing

- Association. The supervisor's license or certification must be in the professional area in which the applicant works.
- b. Direct clinical work with patients, consultations, record keeping, and other duties relevant to a program of clinical work including clinical experience with persons who have communication impairments.
 - c. Direct management of treatment programs for specific patients or clients; and
 - d. Monitoring and evaluation by the the supervising audiologist or speech-language pathologist of the applicant's performance for at least 36 weeks of full time experience or equivalent half-time experience.
6. Endorsement: An applicant for licensure to practice audiology or speech-language pathology that has obtained a certificate of clinical competency from the American Speech-Language-Hearing Association and meets the qualification listed in 172 NAC 23-003-01, items 3, 4, and 5.

23-003.01A Passed Licensure Examination But Is Not Practicing. An applicant who has met the education, professional experience and examination requirements pursuant to 172 NAC 23-003.01 items 3, 4, and 5, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure must present proof to the Department, within the three years immediately preceding the application for licensure, that s/he completed 50 hours of continuing education over the subject areas outlined in Content I, pursuant to 172 NAC 23-004.01, item 1.

23-003.01B Licensed in Another Jurisdiction But Is Not Practicing. An applicant who has met the requirements for licensure pursuant to 172 NAC 23-003.01 based on a license in another jurisdiction and who is not practicing at the time of application for licensure must present proof to the Department, within the three years immediately preceding the application for licensure, that s/he completed 50 hours of continuing education over the subject areas outlined in Content I, pursuant to 172 NAC 23-004.01, item 1.

23-003.01C Temporary License: A temporary license may be issued to an applicant who has established residence in Nebraska and has met all requirements for licensure pursuant to 172 NAC 23-003.01 except:

1. Passing the licensure examination; or
2. Completion of the professional experience.

23-003.01C1 A temporary license is valid until:

1. The results of the next examination are available to the Department at which time the license terminates; or
2. The completion of the professional experience or 18 months, whichever occurs first.

23-003.01C2 A temporary license may not be renewed.

An audiologist who engages in or intends to engage in the sale of hearing instruments must obtain a license as a hearing instrument specialist pursuant to Neb. Rev. Stat. §§ 38-1509 and 38-1512.

23-003.02 Application: To apply for a credential to practice audiology or speech-language pathology, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number. Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
 - (10) The applicant must answer the following questions:
 - (a) Has your license ever been revoked or sanctioned by any licensing authority, association, licensed facility, or staff of such facility?
 - (b) Have your privileges ever been restricted or terminated by any licensing authority, association, licensed facility, or staff of such facility; or have you ever voluntarily or involuntarily resigned or withdrawn from such association to avoid imposition of such measures?

- (c) Do you have any unresolved or pending complaints against you with any licensing agency, professional association, licensed hospital or clinic, or staff of such hospital or clinic?
 - (d) Are you now being treated or have you in the last five years been treated for drug or alcohol dependency or abuse or participated in a rehabilitation program?
 - (e) Have you ever had a professional liability claim that resulted in an adverse judgment, settlement, or award, including settlements made prior to the suit in which the patient released any professional liability claim against you?
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced audiology or speech-language pathology in Nebraska except when practicing under a credential issued by the Department of Education in Nebraska before submitting the application; or
 - (2) If s/he has practiced audiology or speech-language pathology in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 23-006 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, s/he is a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.
- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;

- b. Evidence of good character, including:
- (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry or application for visa for entry, is related to employment as a credential holder in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal

- authority or outlying possession of the United States bearing an official seal;
- (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#") with visa status; or
 - (14) A Form I-94 (Arrival-Departure Record) with visa status;
- e. Documentation of education, including:
- (1) Name and date of diploma/degree awarded; and
 - (2) Name of school, college or university that awarded the diploma/degree.
- f. Documentation of examination, if applicable, including:
- (1) Name of examination;
 - (2) Date of examination; and
 - (3) Proof of passing the licensure examination with a scaled score of 600 or above; and
- g. Documentation that the applicant:
- (1) Requested that the examination scores be sent directly to the Department from the appropriate examination service or State Board Office; and
 - (2) Requested that an official transcript of a master's degree or a doctoral degree, or the equivalent of a master's degree or doctoral degree be sent to the Department.
- h. Documentation of the professional experience, if applicable, to be provided by the supervisor:
- (1) Supervisor's complete name including middle or maiden name;
 - (2) State(s) supervisor is licensed in;
 - (3) Profession supervisor is licensed in: audiology or speech-language pathology;
 - (4) Supervisor's license number(s);
 - (5) Supervisor's Certificate of Clinical Competence certificate number from the American Speech-Language Hearing Association, if applicable;
 - (6) Name of profession that Certificate of Clinical Competence is held in: audiology or speech-language pathology;
 - (7) Name of applicant;
 - (8) Dates of supervision;

- (9) Name of supervision site;
 - (10) Mailing address of site including street, P.O. Box, route, city, state, and zip code;
 - (11) Telephone number including area code of the supervisor;
 - (12) Area in which clinical fellow completed his/her professional experience: audiology or speech- language pathology;
 - (13) Number of hours worked per week;
 - (14) Attest to the following statement: The applicant's professional experience consisted of:
 - (a) Direct clinical work with patients, consultations, record keeping, and other duties relevant to a program of clinical work including clinical experience with persons who have communication handicaps; and
 - (b) Direct management of treatment programs for specific patients or clients; and
 - (15) Sign and date the following statement: I hereby certify that the preceding information is correct to the best of my knowledge;
 - i. Documentation of licensure in another jurisdiction, including:
 - (1) Certification from the other jurisdiction (s) verifying licensure, including:
 - (a) Date of initial licensure;
 - (b) The name of the examination on which licensure was based;
 - (c) The score received on the examination;
 - (d) Date of the examination;
 - (e) Name of accredited program that the applicant presented a transcript from;
 - (f) The nature of disciplinary actions, if any, taken against the applicant's credential.
 - (2) The applicant must:
 - (a) State that s/he has practiced within the three years preceding the application; and
 - (b) Provide the dates and locations of practice prior to the date of the application; and
 - j. Documentation of continuing competency if not practicing: Submit certificates of attendance verifying the 50 hours of continuing education pursuant to 172 NAC 23-004;
 - k. Documentation of continuing competency if licensed in another jurisdiction but not practicing: Submit certificates of attendance verifying the 50 hours of continuing education pursuant to 172 NAC 23.004; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

23-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for

the initial credential, and the credential will be valid until the next subsequent renewal date.

23-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

23-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 23-006, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

23-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

23-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 23-009 or such other action as provided in the statutes and regulations governing the credential.

23-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

23-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

23-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

23-004 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 23-005.03 and 23-005.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

23-004.01 General Requirements for Licensee: On or before December 1 of each even-numbered year, each audiologist or speech-language pathologist who has an active license must:

1. Participate in at least 20 hours of acceptable continuing competency programs/activities for each renewal period. All 20 hours may be from Content Area I with no more than five hours from Content Area II as specified in 172 NAC 23-004.01B items 1 and 2; and
2. Be responsible for maintaining until the next renewal period:
 - a. Documentation of attendance at, or participation in, continuing education programs/activities. Documentation must include:
 - (1) Signed certificate; and
 - (2) Course brochure or course outline; and/or
 - (3) Other requested documentation pursuant to 172 NAC 23-004.01C, items 1, 2, 4, 6, 7, and 8.
 - b. If the licensee is presenting a program, documentation of the continuing education program. Documentation must include:
 - (1) Course outline;
 - (2) Course brochure; and
 - (3) Statement of instructor's qualifications to teach the course, unless the qualifications are included in the brochure; or
3. When applicable, submit an application for waiver of the continuing competency requirement pursuant to 172 NAC 23-005.03 and 23-005.04.

23-004.01A Acceptable Continuing Education: The Board does not pre-approve continuing education programs but will accept as continuing education for renewal, continuing education programs specified in 172 NAC 23-004.01C. The Board retains final authority for acceptance of any educational program/activity submitted by the licensee to meet the continuing competency requirement. In order for continuing education programs/activities to be accepted for renewal or reinstatement of a license, the continuing education programs/activities must relate to the theory or clinical application of theory pertaining to the practice of audiology or speech-language pathology and must be open to all licensees.

23-004.01B It is the licensee's responsibility to attend or participate in continuing education programs/activities which meet the guidelines pursuant to 172 NAC 23-004.01C. Renewal of a license will be contingent upon the licensee fulfilling the continuing competency requirements and maintaining documentation for a possible audit. The licensee may participate in all 20 hours from Content Area I with no more than five hours from Content Area II as specified below:

1. Content Area I
 - a. Anatomic and physiologic bases for the normal development and use of speech, language, hearing, swallowing, and balance;
 - b. Physical bases and processes of swallowing, hearing, balance, and the production and perception of speech and language; c. Linguistic and psycho-linguistic variables related to normal development and use of speech, language, and hearing;
 - d. Technological, biomedical, engineering, and instrumentation information which would enable expansion of knowledge in basic speech, language, hearing, balance, and swallowing processes;
 - e. Various types of disorders of speech, language, hearing, balance, and swallowing, their manifestations, classification, and cause;

- f. Evaluation skills, including procedures, techniques, and instrumentation for assessment of speech, language, hearing, balance, and swallowing; and
 - g. Principles in habilitation and rehabilitation of speech, language, hearing, balance, and swallowing disorders.
2. Content Area II (must relate to the practice of audiology and speech-language pathology):
- a. Regulations and implementation of federal and/or state regulated programs;
 - b. Service delivery models;
 - c. Ethical practices;
 - d. Supervision issues related to the practice of audiology and speech-language pathology;
 - e. Related disciplines which interface with delivery of audiology and speech-language pathology services; and
 - f. Reimbursement issues.

23-004.01C Continuing Education Program/Activity: The following is a list of acceptable continuing education programs/activities and the required documentation specified for each. One hour credit will be awarded for each 60 minutes of attendance and a quarter hour will be awarded for each additional 15 minutes over 60 minutes. Each program/activity must be at least 60 minutes in length. Credit will not be awarded for breaks or meals.

- 1. Programs at State and National meetings which relate to the theory or clinical application of theory pertaining to the practice of audiology or speech-language pathology (for example, a meeting of the Nebraska Speech-Language-Hearing Association and/or the American Speech-Language-Hearing Association, or American Academy of Audiology). Documentation must include:
 - a. The certificate of attendance;
 - b. A listing of individual presentations attended; and
 - c. Continuing education program outline and/or objectives.
- 2. Poster sessions at State and National meetings which relate to the theory or clinical application of theory pertaining to the practice of audiology or speech-language pathology. Documentation must include:
 - a. The certificate of attendance;
 - b. A listing of individual poster sessions attended; and
 - c. Program outline and/or objectives.
- 3. Formal education courses/presentations in which the objectives relate to the theory or clinical application of theory pertaining to the practice of audiology or speech-language pathology and in which:
 - a. The courses or presentations are formally organized and planned instructional experiences that have a:

- (1) Date;
 - (2) Location;
 - (3) Course title;
 - (4) Number of contact hours;
 - (5) Signed certificate of attendance; and
 - b. The instructor has specialized experience or training to meet the objectives of the course. Documentation must include:
 - (1) The certificate of attendance; and
 - (2) Program outline and/or objectives.
4. Accredited university sponsored courses relating to the theory or clinical application of theory pertaining to the practice of audiology and speech-language pathology taken for college credit including internet courses. Documentation of successfully completing the course must include:
 - a. An official transcript; and
 - b. A program outline and/or objectives.
 - (1) One academic semester credit hour is equal to 15 contact hours. A three credit hour course will provide 45 contact hours of continuing education credit.
 - (2) One academic quarter credit hour is equal to ten contact hours. A three credit hour course will provide 30 contact hours continuing education credit; and
 - (3) Documentation of successful completion of the course.
5. Home study where the content of the home study program/activity relates to the theory or clinical application of theory pertaining to the practice of audiology or speech-language pathology, (for example, videotapes, internet courses not for university credit, and/or correspondence courses). The program/activity must have a testing mechanism scored by the named home study provider. Licensees may complete a maximum of ten hours of continuing education requirements by home study each 24 month renewal period. Documentation must include a:
 - a. Certificate of completion; and
 - b. Program outline and/or objectives.
6. Participation in research or other scholarly activities that result in professional publication or acceptance for publication and relate to the practice of audiology or speech-language pathology. Five contact hours will be awarded for each publication. Licensees may earn up to a maximum of ten contact hours of continuing education each 24 month renewal period for;
 - a. Authorship;
 - b. Editorship;
 - c. Co-authorship;
 - d. Co-editorship; or

- e. All of these of a juried publication. Documentation must include:
 - (1) A copy of the final publication; or
 - (2) Verification of publication (for example, title page and table of contents).

- 7. Nationally recognized specialty certification examinations: A licensee may earn ten contact hours of continuing education each 24 month renewal period for successfully completing a nationally recognized specialty certification examination related to an area of advanced practice in the field of audiology or speech-language pathology. Documentation must include a copy of the certification.

- 8. Scientific Presentation: A licensee acting as an essayist or a lecturer to licensed audiologists, speech-language pathologists, or other credentialed health care professionals will be awarded one hour credit for each hour of scientific presentation, including poster sessions if the program/activity relates to the practice of audiology and speech-language pathology. A licensee may receive continuing education credit for only the initial presentation during a renewal period, with a maximum of four hours of continuing education for presentation in a 24 month renewal period. Documentation must include:
 - a. The program brochure that includes the licensee's name as presenter;
 - b. The continuing competency course outline and/or objectives and
 - c. Statement of instructor's qualification to teach the course, unless the qualifications are included in the brochure.

23-004.01D Non-acceptable Continuing Education: Continuing education credit will not be awarded where the content area does not relate to the theory or clinical application of theory pertaining to the practice of audiology and speech-language pathology including but not limited to:

- 1. Marketing and business communications and operations;
- 2. Courses which deal with personal self-improvement, human relations, financial gain, time management, or career options;
- 3. Courses designed for lay persons;
- 4. Teaching non-credentialed persons or any preparation for the same;
- 5. Courses less than 60 minutes in duration;
- 6. Participation in or attendance at case conferences, grand rounds, facility tours, (for example, manufacturing, education, medical, or informal presentations).

23-005 RENEWAL: An individual who wants to renew his/her audiology and/or speech-language pathology credential must request renewal as specified in 172 NAC 23-005.02. All audiology and speech-language pathology credentials issued by the Department will expire on December 1 of each even-numbered year.

23-005.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

23-005.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#) or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
 - c. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - d. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 23-004 or has requested a waiver if s/he meets the requirements of 172 NAC 23-005.03 and/or 23-005.04;
 - (3) Has not, since the last renewal of the credential, committed

- any act which would be grounds for action against a credential as specified in 172 NAC 23-006.01, or if an act(s) was committed, provide an explanation of all such acts: and
- (4) Is a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Alien or Non-Immigrant: Evidence of lawful permanent residence, and/or immigration status may include a copy of:
- (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
- b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
- c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
- d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
- e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor, since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years the applicant must submit to the Department:
- (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on

- probation; and
(6) Any other information as requested by the Board/Department;
and

3. The renewal fee according to 172 NAC 2.

23-005.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 23-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

23-005.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

23-005.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include proof that the credential holder was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date.

23-005.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

23-005.05A The Department/Board will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

23-005.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

23-005.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes:

1. Signed certificate; and
2. Course brochure or course outline; and/or
3. Other requested documentation required pursuant to 172 NAC 23-004.01C, items 1, 2, 4, 6, 7, and 8.

23-005.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

23-005.05E The Department/Board will notify the credential holder upon satisfactory completion of the audit.

23-005.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

23-005.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

23-005.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

23-005.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

23-005.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

23-005.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

23-005.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

23-005.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

23-005.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as an audiologist or speech-language pathologist terminates.

23-005.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 23-009 or such other action as provided in the statutes and regulations governing the credential.

23-005.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of audiology or speech-language pathology after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 23-008.

23-005.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

23-005.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

23-005.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of audiology or speech-language pathology, but may represent him/herself as having an inactive credential.

23-005.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 23-008.

23-006 DISCIPLINARY ACTIONS

23-006.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;

3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently;
 - b. Beyond its authorized scope;
 - c. With gross incompetence or gross negligence; or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 23-006.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 23-006.02; and/or
24. Violation of the Automated Medication Systems Act.

23-006.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency:
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;

14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
15. Competence: An audiologist or speech-language pathologist must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of audiology or speech-language pathology includes but is not limited to performing or agreeing to perform procedures when the procedures are known to be a departure from standard or acceptable and prevailing practice in audiology and speech-language pathology, but not to include a single act of ordinary negligence;
16. Committing any act which endangers public safety or welfare;
17. Confidentiality: Without the prior written consent of a patient, an audiologist or speech-language pathologist must hold in confidence information obtained from a patient, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law.
18. Professional Relationships: An audiologist or speech-language pathologist must safeguard the welfare of patients and maintain professional relationships with patients. Commission of any of the following acts or behavior will constitute unprofessional conduct:
 - a. Exploiting a patient for financial gain or sexual favors;
 - b. Performing or agreeing to perform audiology or speech-language pathology therapy services that have been requested when the services are known to be contraindicated or unjustified;
 - c. Performing or agreeing to perform procedures that have been requested when the procedures are known to be outside of the audiologist's or speech-language pathologist's scope of practice;
 - d. Verbally or physically abusing patients;
 - e. Falsification or unauthorized destruction of patient's records;
 - f. Attempting to provide diagnostic or treatment information to patient(s) that is beyond the audiologist's or speech-language pathologist's level of education, training and expertise;
 - g. Delegating to other personnel those patient related services for which the clinical skills and expertise of an audiologist or speech-language pathologist are required;
 - h. Encouraging or promoting the practice of audiology or speech-language pathology by untrained or unqualified persons;
 - i. Failure to safeguard the patient's dignity and right to privacy;
 - j. Filing a false report or record in the practice of audiology or speech-language pathology including, but not limited to, collecting a fee;
 - k. Falsely representing the use or availability of services or advice of a physician; or
 - l. Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from the services, devices, appliances, or products;
 - m. Providing services except in a professional relationship; and
 - n. Must not discriminate in the provision of services to individuals on the basis of gender, race, religion, or national origin.
19. Sexual Misconduct: An audiologist or speech-language pathologist must under no circumstances engage in sexual misconduct. Specifically with regard to patients, the unprofessional conduct includes, but is not limited to:

- a. Engaging in sexual relationships, whether consensual or non-consensual with any patient while an audiologist or speech-language pathologist/patient relationship exists;
 - b. Engaging in sexual harassment of patients. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
 - (1) Providing or denying service to a patient;
 - (2) Creating an intimidating, hostile, or offensive environment for the patient; or
 - (3) Interfering with a patient's ability to recover.
20. Other unprofessional conduct includes but is not limited to:
- a. Obtaining any fee for professional services by fraud, deceit or misrepresentation;
 - b. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
 - c. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of an audiologist or speech-language pathologist;
 - d. Practicing in this state without a current Nebraska license;
 - e. Failure to obtain patient informed consent before treatment;
 - f. Failure to take steps to transfer the continuum of care of the patient, as appropriate, to another health care provider in the event of elective termination of audiology or speech-language pathology therapy services by an audiologist or speech-language pathologist;
 - g. Failure to report suspected cases of child abuse or vulnerable adult abuse pursuant to Neb. Rev. Stat. §§ 28-717 and 28-384; and
 - h. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Department or its investigator with requested information or requested documents.

23-006.03 Temporary Suspension or Limitation

23-006.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 23-006.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

23-006.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

23-006.03C A temporary suspension or temporary limitation of a credential under 172 NAC 23-006.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

23-006.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

23-006.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

23-006.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 23-006.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

23-007 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;

- c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

23-007.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

23-007.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

23-007.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

23-007.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

23-007.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

23-007.06 Reinstatement following voluntary surrender is set out in 172 NAC 23-008.

23-008 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

23-008.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94

- number, and if so, must report both.
- (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- b. Must state that s/he is one of the following:
- (1) A citizen of the United States;
- (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
- (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
- c. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful permanent residence and/or immigration status which may include a copy of:
- (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
- (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (3) A document showing an Alien Registration Number ("A#") with visa status; or
- (4) A Form I-94 (Arrival-Departure Record) with visa status;
- d. May provide the following information about him/herself:
- (1) Telephone number including area code;
- (2) E-mail address;
- (3) Fax number; and
- e. Must indicate that s/he:
- (1) Is of good character;
- (2) Has met the continuing competency requirements specified in 172 NAC 23-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
- (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
- (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 23-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
- (5) Is a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request; and

2. Fee(s): The following fee(s):

- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
- b. If the credential was voluntarily surrendered, the renewal fee.

23-008.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

23-008.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

23-008.01C The Department will act within 150 days on all completed applications.

23-008.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

23-008.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 23-008.01.

23-008.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:

- (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.

Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- (5) A statement of the reason the applicant believes his/her credential should be reinstated;
- b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
- c. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful permanent residence and/or immigration status which may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
- d. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- e. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 23-004 within the 24 months immediately preceding submission of the application;
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced; and
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 23-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) Is a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The

applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request; and

2. Fee: The renewal fee pursuant to 172 NAC 2.

23-008.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

23-008.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

23-008.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 23-008.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 23-009, in which case a separate notice of opportunity for hearing will be sent to the applicant.

23-008.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

23-008.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the

credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

23-008.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

23-008.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

23-008.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

23-008.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

23-009 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

23-009.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

23-009.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

23-009.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

23-010 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

Effective Date
November 6, 2010

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 23

These amended rules and regulations replace Title 172 NAC 23 Regulations Governing the Practice of Audiology and Speech-Language Pathology, effective April 10, 2006. Fee changes only effective July 1, 2007.

Approved by Attorney General:	October 19, 2010
Approved by Governor:	November 1, 2010
Filed with Secretary of State:	November 1, 2010
Effective Date:	November 6, 2010

Forms may be obtained by contacting the Licensure Unit or by accessing the website at <http://www.hhss.ne.gov/crl/profindex1.htm>

Nebraska Department of Health and Human Services
Department of Public Health
Licensure Unit
PO Box 94986
Lincoln NE 68509-4986

(402)471-2299

STATE OF NEBRASKA

Statutes, Rules and Regulations

Relating to:

**AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY ASSISTANTS**

TITLE 172 NAC 24



**Division of Public Health
Licensure Unit**

Nebraska State Office Building
301 Centennial Mall South-Third Floor
P.O. Box 94986
Lincoln, NE 68509-4986

Effective Date: November 6, 2010

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Effective Date
November 6, 2010

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 24

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 24 REGISTRATION OF AUDIOLOGY AND SPEECH- LANGUAGE PATHOLOGY ASSISTANTS

24-001 SCOPE AND AUTHORITY: These regulations apply to registration requirements for an audiology or speech-language pathology assistant and the certification requirements to supervise an audiology or speech-language pathology assistant as defined by Neb. Rev. Stat. §§ 38-501 to 38-527, and the Uniform Credentialing Act (UCA). Additional licensure information regarding audiology and speech-language pathology requirements may be found in 172 NAC 23.

24-002 DEFINITIONS:

Accredited Training Program means a postsecondary school accredited by a regional accrediting institution recognized by the U.S. Department of Education (for example, North Central Association of Colleges and Schools (Higher Learning Commission), Southern Association of Colleges and Schools (Commission on Colleges).

Act means Neb. Rev. Stat. §§ 38-501 to 38-527 known as the Audiology and Speech-Language Pathology Practice Act.

Alternate Supervisor means a licensed audiologist or speech-language pathologist who provides coverage due to absences of the supervisor not to exceed three months.

Attest or Attestation means that the individual declares that all statements on the application are true and complete.

Audiologist means an individual who practices audiology and who presents him/herself to the public by any title or description of services incorporating the words audiologist, hearing clinician, hearing therapist, or any similar title or description of services.

Audiology or speech-language pathology assistant or any individual who presents him/herself to the public by any title or description with the same duties means any person who, following specified training and receiving specified supervision, provides specified limited structured communication or swallowing services, which are developed and supervised by a licensed audiologist or licensed speech-language pathologist, in the areas in which the supervisor holds license(s).

Board means the Board of Audiology and Speech-Language Pathology.

Confidential information means information protected as privileged under applicable law.

Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Effective Date
November 6, 2010

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 24

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Credential holder means a person that holds a license, certificate or registration to practice a profession/occupation.

Department means the Division of Public Health of the Department of Health and Human Services.

Direct Onsite Supervision means the direction given by a licensed audiologist or speech-language pathologist who:

1. Is present in the room in which clinical services are being given; or
2. Observes the clinical setting either by use of an observation window or by closed circuit television with amplification from the clinical setting.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Dysphagia means disorders of swallowing.

Hour means 60 minutes.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 24.

Official means issued by and under the original seal of the educational institution.

Practice of Audiology means the application of evidence-based practice in clinical decision making for the prevention, assessment, habilitation, rehabilitation, and maintenance of persons with hearing, auditory function, and vestibular function impairments and related impairments including:

1. Cerumen removal from the cartilaginous outer one-third portion of the external auditory canal when the presence of cerumen may affect the accuracy evaluations or impressions of the ear canal for amplification devices; and

2. Evaluation, selection, fitting, and dispensing of hearing instruments, external processors of implantable hearing instruments, and assistive technology devices as part of a comprehensive audiological rehabilitation program.

Practice of audiology does not include the practice of medical diagnosis, medical treatment, or surgery.

Practice of Speech-Language Pathology means the application of principles and methods associated with the development and disorders of human communication skills and with dysphagia, in which principles and methods include screening, assessment, evaluation, treatment, prevention, consultation, and restorative modalities for speech, voice, language, language-based learning, hearing, swallowing, or other upper aero-digestive functions for the purpose of improving quality of life by reducing impairments of body functions and structures, activity limitations, participation restrictions, and environmental barriers.

Practice of speech-language pathology does not include the practice of medical diagnosis, medical treatment, or surgery.

Speech-Language Pathologist means an individual who presents him/herself to the public by any title or description of services incorporating the words speech-language pathologist, speech therapist, speech correctionist, speech clinician, language pathologist, language therapist, language clinician, logopedist, communicologist, aphasiologist, aphasia therapist, voice pathologist, voice therapist, voice clinician, phoniatriest, or any similar title, term, or description of services.

For additional definitions that apply see 172 NAC 23-002.

24-003 INITIAL CREDENTIAL

24-003.01 Qualifications: To receive a credential to practice as an audiology or speech-language pathology assistant, an individual must meet the following qualifications.

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
3. Education:
 - a. Hold a bachelor's degree from an accredited training program in communication disorders; or
 - b. Hold an associate's degree from an accredited training program in communication disorders; or
 - c. Have completed professional education that is equivalent to an associate's degree or a bachelor's degree. The equivalent coursework meets the requirements outlined in Neb. Rev. Stat. § 38-521 and consists of the following:

- (1) A minimum of 30 semester credit hours in general education that includes, but is not limited to the following areas:
 - (a) Oral and written communication: Course work may include grammar and usage, composition, public speaking, or business writing; and
 - (b) Mathematics: Course work may include general mathematics, business mathematics, accounting, algebra, or higher level mathematics; or
 - (c) Computer applications: Course work may include computer basics, computer literacy, word processing, software applications, web-based applications; or
 - (d) Social and natural sciences: Course work may include psychology, sociology, biology, anatomy, or physiology of speech and hearing mechanisms; and
- (2) A minimum of 40 semester credit hours in technical knowledge that includes the following areas:
 - (a) Overview of normal processes of communication across the life span: Course work must include normal speech, language, communication, hearing development and swallowing physiology; and phonetics;
 - (b) Overview of communication disorders including dysphagia. Course work must include speech, language, and hearing disorders, and dysphagia;
 - (c) Overview of the practice of audiology and speech-language pathology; and
 - (d) Instruction in assistant-level service delivery practices. Course work must include technical procedures and legal and professional issues and ethics for audiology and speech-language pathology assistants, assisting the audiologist and speech-language pathologist in service delivery, and audiology and speech-language pathology assistant technical skills in speech, language and hearing disorders, behavior management and modification;
 - (e) Instruction in workplace behaviors: Course work must include workplace behaviors of the audiology or speech-language pathology assistant and must include relating to clients or patients in a supportive and professional manner, observing and recording patient progress, following supervisor's instructions, maintaining confidentiality, communicating in oral and written formats, following health and safety precautions, and appropriate recordkeeping; and

- (f) Cultural and linguistic factors in communication: Course work may include language and culture, nonverbal communications, sign language and other manually coded systems, bilingualism, or multicultural issues; or
- 4. Practical Experience: Have been registered and practiced as a communication assistant. In order to meet this requirement an individual must have:
 - a. Practiced as a communication assistant between the period of June 1, 2005 and June 1, 2007;
 - b. Practiced for at least 30 hours per week for a minimum of nine months per year; and
 - c. Applied for registration within six months after the effective date of these regulations.
- 5. Additional Training Requirements: If the audiology or speech-language pathology assistant will provide aural rehabilitation programs, the audiology or speech-language pathology assistant must complete additional training to include:
 - a. Information concerning the nature of hearing loss;
 - b. Purposes and principles of auditory and visual training;
 - c. Maintenance, and use of amplification devices;
 - d. Communication options for individuals with hearing loss, (for example, sign language and use of assistive technology).

24-003.02 Application: To apply for a credential to practice as an audiology or speech-language pathology assistant, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department on a form provided by the Department and incorporated into these regulations as Attachment A or construct an application that must contain the following information:

- 1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.

- (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
- b. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced as an audiology or speech-language pathology assistant in Nebraska before submitting the application; or
 - (2) If s/he has practiced as an audiology or speech-language pathology assistant in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 23-006 or if an act(s) was committed, provide an explanation of such act; and
 - (5) For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;

- (6) Military identification; or
 - (7) Other similar documentation;
- b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
 - (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry or application for visa for entry, is related to employment as a credential holder in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or

immigration status may include a copy of:

- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#") with visa status; or
 - (14) A Form I-94 (Arrival-Departure Record) with visa status;
 - e. Documentation of education, including:
 - (1) Name and date of diploma/degree awarded; and
 - (2) Name of school, college or university that awarded the diploma/degree.
 - f. Documentation that the applicant:
 - (1) Requested that an official transcript of an associate's degree or a bachelor's degree, or the equivalent of an associate's degree or bachelor's degree be sent to the Department; or
 - (2) Had been registered and practiced as a communication assistant;
 - g. Documentation of aural rehabilitation training by the supervising audiologist or speech-language pathologist if applicable, must be documented on Attachment A1, which is incorporated into these regulations.
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

24-003.03 Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

24-003.04 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

24-003.05 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 23-006, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

23-003.06 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

24-003.07 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 23-009 or such other action as provided in the statutes and regulations governing the credential.

24-003.08 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

24-003.09 Address Information: Each credential holder must notify the Department of any change to the address of record.

24-003.10 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

24-004 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 24-005.03 and 23-005.04.

24-004.01 On or before the date of expiration, each Nebraska registered audiology or speech-language pathology assistant in active practice within the State of Nebraska must meet the continuing competency requirement of ten hours of in-service training per registration period. The inservice training may be formal or informal and must be directly related to the particular services provided by the audiology or speech-language pathology assistant.

24-005 RENEWAL: An individual who wants to renew his/her audiology or speech-language pathology assistant credential must request renewal as specified in 172 NAC 24-005.02. All

audiology and speech-language pathology assistant credentials issued by the Department will expire one year from date of issuance.

24-005.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

24-005.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#) or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
 - c. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;

- d. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 24-004 or has requested a waiver if s/he meets the requirements of 172 NAC 24-005.03 and/or 24-005.04;
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 23-006.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) Is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request.

- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful permanent residence, and/or immigration status may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
 - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor, since his/her last renewal or during the time period since initial credentialing if such occurred within the previous year the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;

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- (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and
3. The renewal fee according to 172 NAC 2.

24-005.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 24-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

24-005.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 12 month period immediately preceding the renewal date.

24-005.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include proof that the credential holder was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 12 months immediately preceding the license renewal date.

24-005.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

24-005.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

24-005.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

24-005.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

24-005.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

24-005.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

24-005.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as an audiology or speech-language pathology assistant terminates.

24-005.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 23-009 or such other action as provided in the statutes and regulations governing the credential.

24-005.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice as an audiology or speech-language pathology assistant after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 23-008.

24-005.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

24-005.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive

status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

24-005.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of profession/occupation, but may represent him/herself as having an inactive credential.

24-005.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 23-008.

24-006 ABILITY TO PRACTICE: In order to practice as a registered audiology or speech language pathology assistant, an individual must be supervised by a licensed audiologist or speech-language pathologist and the supervisor must obtain certification to supervise as specified in 172 NAC 24-007.

24-007 CERTIFICATION TO SUPERVISE REQUIREMENTS: The Department upon recommendation of the Board will approve an application that is submitted by a licensed audiologist or speech-language pathologist to supervise an assistant when the requirements for supervision are met in 172 NAC 24-007.01.

24-007.01 Certification Requirements: The Department, upon recommendation of the Board will approve an application submitted by a licensed audiologist or speech-language pathologist to supervise an assistant when the:

1. Audiology or speech language pathology assistant meets the requirements for registration as outlined in 172 NAC 24-003.01;
2. Audiology or speech-language pathologist has a valid Nebraska license;
3. Audiologist or speech-language pathologist is in active practice in Nebraska;
4. Audiologist or speech-language pathologist is able to:
 - a. Identify the settings in which the audiology or speech-language pathology assistant will be providing audiology or speech-language pathology services;
 - b. Describe the agreed upon functions the audiology or speech-language pathology assistant may perform; and
 - c. Describe the provision for supervision by an alternate audiologist or speech-language pathologist when necessary.
5. The audiologist or speech-language pathologist agrees to follow the requirements for supervision as specified in 172 NAC 24-007.03.
6. The audiologist or speech-language pathologist may only supervise two assistants.

24-007.02 Application: To apply for a credential to practice as an audiology or speech-language pathology assistant supervisor, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an

application from the Department on a form provided by the Department and incorporated into these regulations as Attachment B or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The Nebraska license number of the audiologist or speech-language pathologist;
 - b. Audiology or speech-language pathology assistant information:
 - (1) Name of audiology or speech-language pathology assistant that you are supervising;
 - (2) The area in which the assistant will be working, audiology or speech-language pathology;
 - c. Practice site information:
 - (1) Name of facility;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's telephone number including area code (optional);
 - d. Duties the audiology or speech-language pathology assistant will perform as defined in 172 NAC 24-002;
 - e. Affidavit: The applicant must certify that:
 - (1) S/he is the person referred to in the application
 - (2) All statements on the application are true and complete;
 - (3) Ensure that the audiologist or speech-language pathologist assistant named in the application will not perform functions listed in Neb. Rev. Stat. § 38-524 as follows:
 - (a) Evaluate or diagnose any type of communication disorder;
 - (b) Evaluate or diagnose any type of dysphagia;
 - (c) Interpret evaluation results or treatment progress;
 - (d) Consult or counsel, independent of the licensed audiologist or speech-language pathologist, with a patient, a patient's family, or staff regarding the nature or degree of communication disorders or dysphagia;
 - (e) Plan patient treatment programs;
 - (f) Represent himself or herself as an audiologist or speech-language pathologist or as a provider of speech, language, swallowing, or hearing treatment or assessment services;
 - (g) Independently initiate, modify, or terminate any

- treatment program; or
- (h) Fit or dispense hearing instruments.
- (4) The audiologist or speech-language pathologist assistant named in the application will not perform aural rehabilitation unless s/he has the additional training required by Neb. Rev. Stat. § 38-522;
 - (5) S/he will be responsible for supervising the audiology or speech-language pathology assistant;
 - (6) S/he agrees to provide an alternate supervisor when unable to supervise the audiology or speech-language pathology assistant;
- f. Additional information: The applicant must:
- (1) State whether or not s/he is supervising any other audiology or speech-language pathology assistants;
 - (2) List the names of the audiology or speech-language pathology assistants being supervised, if applicable;
 - (3) Describe the provision for supervision by an alternate audiologist or speech-language pathologist during the supervisor's absence;
2. Fee: The applicant must submit the required license fee along with the application and all required documentation.

24-007.03 Supervisor Duties: A licensed audiologist or speech-language pathologist supervisor must:

- 1. Provide and document direct onsite supervision for the first two treatment sessions of each patient;
- 2. Provide and document direct onsite supervision of at least 20% of all subsequent treatment sessions per quarter;
- 3. Provide and document at least ten hours in-service training each year, either formal or informal, which is directly related to the particular services provided by the audiology or speech-language pathology assistant;
- 4. Prepare semi annual performance evaluations of the audiology or speech-language pathology assistant to be reviewed with the audiology or speech-language pathology assistant on a one-to-one basis;
- 5. Prepare and provide annual reports to the Department with the audiology or speech-language pathology assistant's renewal verifying that evaluation, supervision and training have been completed pursuant to Neb. Rev. Stat. § 38-525; and
- 6. Be responsible for all aspects of patient treatment;
- 7. Supervise no more than two audiology or speech-language pathology assistants at one time;
- 8. Maintain the records listed in 172 NAC 24-007.03, items 1- 5 for five years from the date of the record.

24-007.04 Audiology or Speech-Language Pathology Assistant Duties and Activities:

An audiology or speech-language pathology assistant may, under the supervision of a licensed audiologist or speech-language pathologist, perform the following duties and activities:

1. Implement programs and procedures designed by a licensed audiologist or speech-language pathologist;
2. Maintain records of implemented procedures which document a patient's responses to treatment;
3. Provide input for interdisciplinary treatment planning, inservice training, and other activities directed by a licensed audiologist or speech-language pathologist;
4. Prepare instructional material to facilitate program implementation as directed by a licensed audiologist or speech-language pathologist;
5. Follow plans, developed by the licensed audiologist or speech-language pathologist, that provide specific sequences of treatment to individuals with communicative disorders or dysphagia;
6. Chart or log patient responses to the treatment plan; and
7. Provide aural rehabilitation if additional training listed in 172 NAC 24-003.01, item 5 was completed.

24-007.05 Audiology or Speech-Language Pathology Assistant; acts prohibited: An audiology or speech-language pathology assistant is not allowed to:

1. Evaluate or diagnose any type of communication disorder;
2. Evaluate or diagnose any type of dysphagia;
3. Interpret evaluation results or treatment progress;
4. Consult or counsel, independent of the licensed audiologist or speech-language pathologist, with a patient, a patient's family, or staff regarding the nature or degree of communication disorders or dysphagia;
5. Plan patient treatment programs;
6. Represent himself or herself as an audiologist or speech-language pathologist or as a provider of speech, language, swallowing, or hearing treatment or assessment services;
7. Independently initiate, modify, or terminate any treatment program; or
8. Fit or dispense hearing instruments.

24-007.06 Denial of Certification To Supervise: The Department may deny an audiologist or speech-language pathologist the right to supervise an audiology or speech-language pathology assistant upon evidence of any of the following:

1. The audiology or speech-language pathologist is not licensed to practice audiology or speech-language pathology in Nebraska;
2. The audiology or speech-language pathology assistant is not registered in Nebraska, or
3. The audiologist or speech-language pathologist proposes to permit the audiology or speech-language pathology assistant to perform duties beyond the scope of

practice of an audiology or speech-language pathology assistant. The duties include the following:

- a. Evaluating or diagnosing any type of communication disorder;
 - b. Interpreting evaluation results or treatment progress;
 - c. Consulting or counseling, independent of the licensed audiologist or speech-language pathologist, with a patient, a patient's family, or staff regarding the nature or degree of communication disorders;
 - d. Planning patient treatment programs;
 - e. Representing him/herself as an audiologist or speech-language pathologist or as a provider of speech, language, or hearing treatment or assessment services; or
 - f. Independently initiating, modifying, or terminating any treatment program; and
4. The audiologist or speech-language pathologist is supervising more than two audiology or speech-language pathology assistants.

24-007.07 Termination of Supervision: If the supervision of an audiology or speech-language pathology assistant is terminated by the audiologist or speech-language pathologist or the audiology or speech-language pathology assistant:

1. The audiologist or speech-language pathologist must notify the Department in writing, within 30 days of the termination and the date supervision ceased; and
2. The audiology or speech-language pathology assistant must cease providing any audiology or speech-language pathology services on the date the approved supervision is terminated.

24-007.08 Department Review: The Department will act within 150 days upon all completed applications for approval to supervise.

24-007.09 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 23-006, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

24-007.10 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

24-007.11 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 23-009 or such other action as provided in the statutes and regulations governing the credential.

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24-007.12 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

24-007.13 Address Information: Each credential holder must notify the Department of any change to the address of record.

24-007.14 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

24-008 DISCIPLINARY ACTION: Information on disciplinary actions may be found in 172 NAC 23-006.

24-009 REINSTATEMENT: Information on reinstatement may be found in 172 NAC 23-008.

24-010 ADMINISTRATIVE PENALTY: Information on administrative penalty may be found in 172 NAC 23-009.

24-011 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

Approved by Attorney General:	October 19, 2010
Approved by Governor:	November 1, 2010
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Forms may be obtained by contacting the Licensure Unit or by accessing the website at <http://www.hhss.ne.gov/crl/profindex1.htm>

Nebraska Department of Health and Human Services
Department of Public Health
Licensure Unit
PO Box 94986
Lincoln NE 68509-4986

(402)471-2299

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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 29 LICENSURE OF CHIROPRACTORS/CHIROPRACTIC PHYSICIANS

29-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of chiropractors/chiropractic physicians under Neb. Rev. Stat. §§ 38-801 to 38-811 and the Uniform Credentialing Act (UCA).

29-002 DEFINITIONS

Accountability means being responsible and answerable.

1. Chiropractic accountability means being responsible and answerable for decisions and for the action or inaction of self and/or others, and for the resultant client/patient outcomes related to decisions and action or inaction; and
2. Unlicensed person accountability means being responsible and answerable for the action or inaction of self.

Accredited College of Chiropractic means:

1. One which is approved by the Board;
2. A legally chartered college of chiropractic requiring for admission a diploma from an accredited high school or its equivalent and, beginning with students entering a college of chiropractic on or after January 1, 1974, at least two years credit from an accredited college or university of this or some other state, which requirement will be regularly published in each prospectus or catalog issued by such institution;
3. One which conducts a clinic for patients in which its students are required to regularly participate in the care and adjustment of patients;
4. One giving instruction in anatomy, orthopedics, physiology, embryology, chemistry, pathology, health ecology, bacteriology, symptomatology, histology, spinal analysis, diagnosis, roentgenology, neurology, and principles and practice of chiropractic; and
5. One requiring an actual attendance for four college years totaling not less than four thousand hours.

Act means Neb. Rev. Stat. §§ 38-801 to 38-811, known as the Chiropractic Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Assist means to give aid and support in the performance of an activity.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Chiropractic.

Board approved accredited college of chiropractic means colleges or schools of chiropractic meeting the conditions of an Accredited College of Chiropractic in 172 NAC 29-002 and accredited by the Council on Chiropractic Education - United States (CCE-US).

Chiropractic adjustment means the same as the term joint manipulation and means a high velocity thrust, which carries a joint beyond the normal physiological range of motion and is accompanied by joint cavitations whether audible or inaudible. The patient cannot prevent motion beyond the physiological range. Joint manipulation commences where manual therapy or grades one through four mobilization ends. Motion beyond the physiological range of motion occurs without the patient's ability to control such motion. This includes, but is not limited to, a high velocity low amplitude thrust.

Chiropractor/Chiropractic Physician means an individual who is currently licensed or otherwise authorized to practice chiropractic pursuant to the Uniform Credentialing Act.

Chiropractic service means:

1. Assessing human responses to actual or potential health conditions;
2. Establishing a diagnosis;
3. Establishing a plan of care for the client/patient, including goals, outcomes, and prescriptions for treatments or referrals;
4. Implementing the plan of care through the direct and indirect provision of care; and
5. Evaluating client/patient responses to the plan of care and treatments, and making adjustments to the plan of care based upon the evaluation.

Competence means the state or quality of being capable as a result of having the required knowledge, skills, and ability.

1. Chiropractic competence means the ability of the chiropractor/chiropractic physician to apply interpersonal, technical and decision-making skills at the level of knowledge consistent with the prevailing standard for the chiropractor's/chiropractic physician's current practice role.
2. Unlicensed person competence means the ability of the unlicensed person:
 - a. To utilize effective communication;
 - b. To collect basic objective and subjective data;
 - c. To perform selected non-complex tasks safely, accurately, and according to standard procedures; and
 - d. To seek guidance and direction when appropriate.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Complex tasks means those tasks that require:

1. Chiropractic judgment to safely alter standard procedures pursuant to the needs of the client/patient; or
2. Chiropractic judgment to determine how to proceed from one step to the next; or
3. The multi-dimensional application of the chiropractic service.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing education means the offering of instruction or information to licensees for the purpose of maintaining skills necessary to the safe and competent practice of chiropractic. The continuing education may be offered under the names of "scientific school", "clinic", "forum", "lecture", "course of study" or "educational seminar".

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically

significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Hour means a period of 60 minutes of formal instruction, otherwise known as a "contact hour."

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 29.

Non-complex tasks mean those tasks that can safely be performed according to exact directions, do not require alteration of the standard procedure, and for which the results and client/patient responses are predictable.

Official transcript means issued by and under the original seal of the educational institution.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Practice of chiropractic means one or a combination of the following, without the use of drugs or surgery:

1. The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders, and disease by the use of diagnostic X-ray, physical and clinical examination, and routine procedures including urine analysis; or
2. The science and art of treating human ailments, disorders, and disease by locating and removing any interference with the transmission and expression of nerve energy in the human body by chiropractic adjustment, chiropractic physiotherapy, and the use of exercise, nutrition, dietary guidance, and colonic irrigation.

The use of X-rays beyond the axial skeleton as described in item 1 of this section shall be solely for diagnostic purposes and shall not expand the practice of chiropractic to include the treatment of human ailments, disorders, and disease not permitted when the use of X-rays was limited to the axial skeleton.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Protocol means a written document that is created or approved by a chiropractor/chiropractic physician that guides subjective and objective data collection, and defines interventions, treatments, or tasks to be performed based upon the collected data.

Provider means an institution or individual that presents continuing education programs to licensees.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

Stable and/or predictable means a situation where the client/patient’s clinical and behavioral status and chiropractic care needs are determined by a chiropractor/chiropractic physician to be non-fluctuating and consistent or where the fluctuations are expected and the interventions are planned, including those clients/patients whose deteriorating condition is expected.

Supervision means the provision of oversight and includes maintaining accountability to determine whether or not chiropractic care is adequate and delivered appropriately. Supervision includes the assessment and evaluation of client/patient condition and responses to the chiropractic plan of care, and evaluation of the competence of persons providing chiropractic care.

1. Direct supervision means that the responsible chiropractor/chiropractic physician is physically present in the clinical area, and is able to assess, evaluate, and respond

immediately. Direct supervision does not mean that the responsible chiropractor/chiropractic physician must be in the same room, or "looking-over-the-shoulder" of the persons providing chiropractic care; and

2. Indirect supervision means that the responsible chiropractor/chiropractic physician is available through periodic inspection and evaluation and telecommunication for direction, consultation, and collaboration.

Unlicensed person means a person who does not have a license to practice chiropractic and who functions in an assistant or subordinate role to the chiropractor/chiropractic physician.

29-003 INITIAL CREDENTIAL

29-003.01 Qualifications: To receive a credential to practice chiropractic, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Have graduated from a Board approved accredited college of chiropractic as defined by 172 NAC 29-002 and accredited by the Council on Chiropractic Education - United States (CCE-US).
4. Examination and Other Proof of Competency: Pass an examination as set out below:
 - a. For applicants who apply no more than three years after passing the examination, Parts I, II, III, IV, and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part;
 - b. For applicants who have met the examination requirements in 172 NAC 29-003.01, item 4.a. who passed the examination more than three years prior to the time of application, and who are not practicing in another jurisdiction at the time of application, the National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the three years immediately preceding the application;
 - c. For applicants who are currently licensed and practicing in another jurisdiction, at the time of application:
 - (1) The examination set out in 172 NAC 29-003.01, item 4.a.; or
 - (2) Parts I, II and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part; and
 - (3) The National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375;
 - d. For applicants currently licensed in another jurisdiction, but are not

practicing at the time of application:

- (1) The examination set out in 172 NAC 29-003.01, item 4.a; or
- (2) Parts I, II and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part; and
- (3) The National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the two years immediately preceding the application; and
- (4) Completed 36 hours of continuing education pursuant to 172 NAC 29-006.02, within 24 months prior to making application.

29-003.02 Application: To apply for a credential to practice chiropractic, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- (9) The applicant must answer the following questions. If the answer is yes, the applicant must submit an explanation for each affirmative answer.
 - (a) Have you ever had any application for any professional license refused or denied by any licensing authority?
 - (b) Have you ever been disciplined by an employer that resulted in your inability to work?
 - (c) To your knowledge have any unresolved or pending complaints ever been filed against you with any chiropractic licensing agency, professional

- association, licensed hospital or clinic?
- (d) Are you being treated or have you been treated, in the last five (5) years, for drug or alcohol addiction or participated in rehabilitation?
 - (e) Have you ever been disciplined for practicing as a chiropractor when your physical or mental abilities were impaired by the use of controlled substances or other habit forming drugs, chemicals, or alcohol or by other causes?
 - (f) Have you ever been named as a defendant to a civil suit related to the practice of chiropractic that resulted in a settlement or judgment?
 - (g) Are you being treated or have you been treated in the last five (5) years, for any disease or condition that interfered with your ability to competently and safely perform the essential functions of a chiropractor, including any disease or condition generally regarded as chronic and/or infectious by the medical community?
 - (h) Has your license in any health care profession in another state been revoked, suspended, limited or disciplined in any manner?
 - (i) Have you ever been denied a license or the right to take an examination?
 - (j) Have you ever been licensed as a chiropractor in another state?
- b. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced chiropractic in Nebraska before submitting the application; or
 - (2) If s/he has practiced chiropractic in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 29-008 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. § 38-129:
 - (i.) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United

- States who is eligible for a credential under the Uniform Credentialing Act; or
- (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
- (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
- b. Evidence of good character, including:
- (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing

- probationary conditions and current status, if the applicant is currently on probation; and
- (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
- (1) Name and date of degree awarded;
 - (2) Name of the accredited chiropractic school, college or university that awarded the degree; and
 - (3) Official transcript.
- f. Documentation of examination, including:
- (1) Name of examination;
 - (2) Date of examination; and
 - (3) Scores received; and
- g. Documentation that the applicant:
- (1) Requested that the examination scores be sent directly to the

- Department from the National Board of Chiropractic Examiners;
- (2) Requested that the transcript from an accredited chiropractic program or institution showing the graduation date be sent directly to the Department; and
 - (3) Submitted any other documentation as requested by the Board/Department.
- h. Documentation of licensure in another jurisdiction, including:
- (1) Certification from the other jurisdiction(s) verifying licensure, including:
 - (a) Date of initial licensure
 - (b) The name of the examination on which licensure was based;
 - (c) The score attained on the examination;
 - (d) Date of the examination;
 - (e) Name of accredited program that the applicant presented a transcript from;
 - (f) The nature of disciplinary actions, if any, taken against the applicant's credential; and
 - (2) The dates and locations of practice prior to the date of the application.
- i. Documentation of continuing competency if licensed in another jurisdiction but not practicing: Submit certificates of attendance verifying the 36 hours of continuing education pursuant to 172 NAC 29-006; and

3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

29-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

29-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

29-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 29-008, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

29-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her

application or whose application is rejected by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

29-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 29-011 or such other action as provided in the statutes and regulations governing the credential.

29-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

29-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

29-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

29-004 PRACTICAL EXAMINATION ELIGIBILITY

29-004.01 To be eligible to take the National Board of Chiropractic Examiners Part IV practical examination, an applicant must have passed the NBCE Parts I, II, III, and Physiotherapy section given by the National Board of Chiropractic Examiners by the Part IV application deadline.

29-004.02 To apply to take the practical examination, an applicant must contact the National Board of Chiropractic Examiners, 901 54th Avenue, Greeley, Colorado, 80634, 800-964-6223.

29-005 USE OF UNLICENSED PERSONNEL

29-005.01 The full utilization of chiropractors/chiropractic physicians may require auxiliary client/patient care services provided by persons carrying out tasks, treatments, or interventions to support the provision of chiropractic services as assigned or directed by a licensed chiropractor/chiropractic physician. The scope of assignment or direction may vary depending on the level of judgment required for the task, treatment, or intervention, the knowledge and skills of the unlicensed person, the method and frequency of supervision, and the client/patient's condition, ability and willingness to be involved in the management of his/her own care.

29-005.01A A licensed chiropractor/chiropractic physician retains accountability for the application of the chiropractic service when making the decision to assign or direct chiropractic tasks, treatments, or interventions and for the adequacy of client/patient care and outcomes related to the assignment or direction decision.

29-005.01B Although unlicensed persons may be used to complement chiropractors/chiropractic physicians in the provision of chiropractic care, these persons cannot be used as a substitute for a licensed chiropractor/chiropractic physician.

29-005.01C A licensed chiropractor/chiropractic physician must assign or direct unlicensed persons in a manner that allows for safe, accountable, and responsible provision of chiropractic care.

29-005.01D The detail and method of communication must be congruent with the experience competency of the unlicensed person and the frequency and method of supervision.

29-005.01E A licensed chiropractor/chiropractic physician may assign or direct unlicensed persons to perform selected tasks, treatments, or interventions that:

1. Reoccur frequently in the care of a client/patient or group of clients/patients;
2. Do not require the unlicensed person to exercise independent chiropractic judgment;
3. Do not require the performance of a complex task or tasks;
4. The results of the task, treatment, or intervention are predictable and the potential risk is minimal; and
5. Utilize a standard and unchanging procedure.

29-005.01F Tasks, treatments, or interventions that may not be assigned or directed include, but are not limited to:

1. Activities, including data collection, problem identification, and outcome evaluation that require independent chiropractic judgment;
2. Coordination and management of care including collaborating, consulting, and referring;
3. Tasks, treatments, or interventions that are complex pursuant to 172 NAC 29-002; or
4. Tasks, treatments, or interventions that require a license or other credential, unless the unlicensed individual has the required license or credential.

29-005.02 An unlicensed person as assigned or directed by a chiropractor/chiropractic physician may contribute to the assessment of the health status of individuals including interactions of individuals with family members or group members by:

1. Collecting basic subjective and objective data from observations and interviews. The data to be collected must be identified by the chiropractor/chiropractic physician; and
2. Reporting and recording the collected data.

29-005.03 Data collected by an unlicensed person as assigned or directed by a chiropractor/chiropractic physician may be used by the chiropractor/chiropractic physician as part of the establishment of a diagnosis for clients/patients, as part of development of a plan of care for clients/patients, or as part of evaluating responses to chiropractic treatments or interventions.

29-005.04 An unlicensed person as assigned or directed by a chiropractor/chiropractic physician may participate in the implementation of a plan of care for clients/patients by the performance of non-complex tasks, treatments, or interventions. This includes documenting and communicating completion of the tasks, treatments, or interventions and client/patient responses and seeking guidance and direction when appropriate.

29-005.05 A licensed chiropractor/chiropractic physician must communicate to the unlicensed person the conditions of any assignment or direction for which the chiropractor/chiropractic physician is responsible. Communication may be either written or oral or both and must include as appropriate:

1. The specific observations to be monitored, and the expected method of communication to report the observations;
2. The specific task, treatment, or intervention to be done and any client/patient specific instructions and/or limitations;
3. The expected result of the task, treatment, or intervention; and
4. The unexpected results or potential complications of the task, treatment, or intervention, including the method and time lines for communicating this to the chiropractor/chiropractic physician.

29-005.06 A licensed chiropractor/chiropractic physician may provide direction to unlicensed persons or assign tasks, treatments, or interventions to unlicensed persons through either direct or indirect supervision or a combination of both.

29-005.06A Indirect supervision can be provided through protocols and periodic inspection and evaluation in combination with plans of care.

29-005.06A1 Indirect supervision is appropriate when client/patient conditions are stable and/or predictable, and the client/patient is competent to make informed decisions and provide necessary information relative to the tasks, treatments, or interventions.

29-005.06A1a Protocols must:

1. Be written;
2. Identify any specific assessment data to be gathered and reported and the specific parameters for any task(s), treatment(s), or intervention(s) to be performed; and
3. Identify tasks, treatments, or interventions that may be provided. Tasks, treatments, or interventions may include, but are not limited to:
 - a. Monitoring client/patient's condition by the unlicensed person;
 - b. The direct or provision of chiropractic tasks, treatments, or interventions;
 - c. Referral to another licensed health care provider for service; and/or

- d. Consultation with the chiropractor/chiropractic physician for specific direction.

29-005.06A2 Indirect supervision by the chiropractor/chiropractic physician must include:

1. An evaluation by the chiropractor/chiropractic physician to determine the adequacy of the protocols to serve the intended purpose; and
2. The availability of the chiropractor/chiropractic physician, or an appropriate substitute, to the unlicensed person by consultation and collaboration. An appropriate substitute may be another licensed practitioner in an emergency room, the client/patient's primary health care provider, or another specifically designated chiropractor/chiropractic physician.

29-005.06B Direct supervision is required when the client/patient is not competent to make informed decisions or cannot provide necessary information relative to the tasks, treatments, or interventions.

29-006 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 29-007.03 and 172 NAC 29-007.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

29-006.01 General Requirements for Licensee: On or before August 1 of each even-numbered year, each Nebraska-licensed chiropractor/chiropractic physician who has an active license must:

1. Complete 36 hours of acceptable continuing education during the preceding 24 month period as specified below. The 36 hours must include:
 - a. Four hours related to technical skills in one or a combination of the following categories:
 - (1) Continuing education designed to enhance the practitioner's technical and clinical skill related to x-ray physics, quality control, x-ray production, and interpretation of diagnostic imaging; and/or
 - (2) Continuing education designed to enhance the practitioner's skill in utilizing chiropractic adjustive technique; and
 - b. Four hours related to practice issues in one or a combination of the following categories as determined by the Board:
 - (1) Continuing education pertaining to HIV/AIDS, infectious diseases and related conditions as they relate to chiropractic;
 - (2) Continuing education designed to enhance the practitioner's awareness of gender sensitivity and sexual harassment issues. These programs are commonly referred to as boundary training;
 - (3) Continuing education related to the chiropractic scope of practice in the State of Nebraska. The programs must include adopted practice

- (4) guidelines and practice law specific to Nebraska only;
 - (4) Continuing education designed to enhance the practitioner's skill related to ordering laboratory tests and interpreting information from laboratory tests;
 - (5) Continuing education designed to enhance the practitioner's skill in performing physical, neurological, and orthopedic examination procedures as they relate to chiropractic practice;
 - (6) Continuing education related to prevention of fraud, system set-ups, coding, quality control, and standards of practice;
 - (7) Continuing education pertaining to the provision of rehabilitative care as it relates to chiropractic practice;
 - (8) Continuing education related to practice ethics as recognized by state or national associations; and
 - (9) Continuing education related to the use of unlicensed personnel.
2. Be responsible for maintaining until the next renewal period:
- a. Documentation of attendance at, or participation in, continuing education programs/activities. Documentation must include:
 - (1) Signed certificate; and
 - (2) Course brochure or course outline; and/or
 - b. If the licensee is presenting a program, documentation of the continuing education program. Documentation must include:
 - (1) Course outline; and
 - (2) Course brochure;
 - (3) Statement of instructor's qualifications to teach the course, unless the qualifications are included in the brochure; and
3. If applicable, submit an application for waiver of the education requirement pursuant to 172 NAC 29-007.03 and 29-007.04.

29-006.01A An individual will not receive more than eight hours of continuing education credit for any one day of attendance.

29-006.01B The Board will notify all Nebraska-licensed chiropractors/chiropractic physicians, in active practice by the first working day after August 1 of each even-numbered year, of the categories and number of hours in each category that must be obtained from those items listed in 172 NAC 29-006.01, item 1.b. but not exceeding a total of four hours.

29-006.02 Acceptable Continuing Education: The Board does not pre-approve continuing education programs but will accept as continuing education for renewal, continuing education programs specified in 172 NAC 29-006.02B. The Board retains final authority for acceptance of any educational program/activity submitted by the licensee to meet the continuing competency requirements. In order for a continuing education activity to be accepted for renewal or reinstatement of a license, the continuing education activity must relate to the practice of chiropractic and must be open to all licensees.

29-006.02A A continuing education activity will be acceptable when:

1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the licensee;
2. The objectives of the continuing education activity relate to the practice of chiropractic;
3. It has a date, location, course title, number of contact hours, and signed certificate of attendance;
4. It is no more than eight hours in length per day;
5. The program is five hours or longer in duration in any one day, at least an hour must be included in the program for a meal break. All programs must be monitored to assure attendance.
6. The provider for mandatory programs on subject areas pursuant to 172 NAC 29-006.01, item 2 (a-b) for purposes of meeting the mandatory continuing education hours requirement must have provided at least one continuing education program relating to the practice of chiropractic each year for the previous three years; and
7. The instructor has specialized experience or training to meet the objectives of the course. The presenter of any course on interpreting diagnostic imaging must:
 - a. Be a Diplomate of the American Chiropractic Board of Radiology or its equivalent; or
 - b. Have five years experience in teaching diagnostic imaging.

29-006.02A1 One hour of credit will be awarded for each hour of attendance. Only the portion of the meeting which meets the definition of continuing education may be used for credit. Partial credit may be awarded to the licensee for the hours attended. Credit will not be awarded for breaks or meals.

29-006.02B Continuing Education Program/Activity: The following is a list of acceptable continuing education programs/activities and the required documentation specified for each.

1. Programs at State and National Association meetings (for example, a meeting of the Nebraska Chiropractic Physicians Association or other state chiropractic associations and/or the American Chiropractic Association or the International Chiropractic Association (ICA) or similar organizations). Documentation must include:
 - a. A certificate of attendance; and
 - b. The program outline and/or objectives.
2. Workshops, seminars, and/or conferences where the content of the continuing education activity relates to the practice of chiropractic. Documentation must include:
 - a. A certificate of attendance; and
 - b. The program outline and/or objectives.
3. Formal education courses given at accredited institutions of higher education which relate directly to the practice of chiropractic. No

more than 15 hours of continuing education credit will be awarded by the Board for each semester hour earned. Documentation must include:

- a. An official transcript;
 - b. The program outline and/or objectives; and
 - c. Documentation of successful completion of the course.
4. Programs approved by Providers of Approved Continuing Education (PACE) sponsored by the Federation of Chiropractic Licensing Boards (FCLB). Documentation must include:
 - a. A certificate of attendance; and
 - b. The program outline and/or objectives.
 5. Formal self study where the self study activity content relates to the practice of chiropractic, (for example, videotapes, internet courses, CDs and correspondence courses). Licensees may complete a maximum of 6 hours of continuing education by self-study each 24 month renewal period. The self-study program must have a testing mechanism scored by the provider of the self study activity. The mandatory continuing education hours pursuant to 172 NAC 29-006.01, item 1 (a-b) may not be obtained by completing formal self study activities. Documentation must include:
 - a. The program outline and/or objectives; and
 - b. Certificate of completion.
 6. Subject matter acceptable for continuing education credit includes, but is not limited to, acupuncture, philosophy, and nutrition.

29-006.03 A licensee who is a presenter of a continuing education program may receive credit for the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program.

29-006.04 Examples of nonacceptable subject matter include, but are not limited to, practice promotion.

29-007 RENEWAL: An individual who wants to renew his/her chiropractic credential must request renewal as specified in 172 NAC 29-007.02. All chiropractic credentials issued by the Department will expire on August 1 of each even-numbered year.

29-007.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

29-007.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address;
 - (3) The applicant's fax number;
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 29-006 or has requested a waiver if s/he meets the requirements of 172 NAC 29-007.03 and/or 29-007.04; and
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 29-008.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card.
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An

- Employment Authorization Card/Document is not acceptable;
or
- (4) A Form I-94 (Arrival-Departure Record);
- b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
- c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
- d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
- e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
- (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department;
- And

3. The renewal fee according to 172 NAC 2.

29-007.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 29-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active

duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

29-007.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

29-007.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. The circumstances must include situations in which the licensee;

1. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or
2. Any other circumstances beyond the licensee's control that prevented completion of the continuing competency requirements.

29-007.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

29-007.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

29-007.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

29-007.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes those documents outlined in 172 NAC 29-006.01, item 2. Examples are:

1. Copies of certificates; and
2. Course outline or course objectives; or
3. Letters documenting attendance from providers;
4. Copies of transcripts from educational institutions; or
5. Other documentation as required by 172 NAC 29-006.02B.

29-007.05D The Department/Board will review the submitted documentation to

determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

29-007.05E The Department will notify the credential holder upon satisfactory completion of the audit.

29-007.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

29-007.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

29-007.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

29-007.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

29-007.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

29-007.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

29-007.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

29-007.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

29-007.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice chiropractic terminates.

29-007.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 29-011 or such other action as provided in the statutes and regulations governing the credential.

29-007.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of chiropractic after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 29-010.

29-007.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

29-007.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

29-007.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of chiropractic, but may represent him/herself as having an inactive credential.

29-007.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 29-010.

29-008 DISCIPLINARY ACTIONS

29-008.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would

have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;

6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 29-008.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty; and/or
23. Unprofessional conduct as defined in 172 NAC 29-008.02.

29-008.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes, but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be

- permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic; or
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement.
 3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
 4. Cheating on or attempting to subvert the credentialing examination;
 5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
 6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
 7. Knowingly disclosing confidential information except as otherwise permitted by law;
 8. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
 9. Failure to keep and maintain adequate records of treatment or service;
 10. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
 11. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
 12. Competence: Providing services for which the chiropractor/chiropractic physician is not trained or experienced.
 13. Confidentiality: Failure to hold in confidence information obtained from a patient, except where otherwise required by law.
 14. Professional Relationships: Failure to safeguard the welfare of patients and maintain appropriate professional relationships with patients and other health care practitioners. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - a. Improper use of another person for one's own advantage;
 - b. Failure to decline to carry out chiropractic services that have been requested when the services are known to be contraindicated or unjustified;
 - c. Failure to decline to carry out procedures that have been requested when the services are known to be outside of the chiropractor's/chiropractic physician's scope of practice;
 - d. Verbally or physically abusing patients;
 - e. Falsification or unauthorized destruction of patient records;

- f. Delegating to other personnel those patient related services when the clinical skills and expertise of a chiropractor/chiropractic physician is required;
 - g. Over-utilization of laboratory and x-ray procedures, and the devices or nutritional products that are in the best interest of the patient;
 - h. Failure to assure that the patient possesses enough information to enable intelligent choices in regard to proposed chiropractic treatment;
 - i. Failure to terminate a professional relationship when it becomes clear that the patient is not benefiting from further care or treatment; and
 - j. Failure to consult and seek the talents of other health care professionals when the consultation would benefit the patient or when the patient expressed a desire for the consultation.
15. Sexual Harassment: Engaging in sexual misconduct which is defined as sexual harassment of clients. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
- a. Providing or denying service to a client;
 - b. Creating an intimidating, hostile, or offensive environment for the client; or
 - c. Providing favorable reports for sexual favors.
16. Sexual Intimacy: Engaging in sexual intimacy with a patient for six months preceding the provision of professional services, during the provision of professional services, or for six months following the termination of professional services. Sexual intimacy is any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning and may or may not include sexual contact.
17. Advertising, Publicity and Solicitation:
- a. A chiropractor/chiropractic physician must not make a false or misleading communication about the chiropractor/chiropractic physician or the chiropractor's/chiropractic physician's services. A communication is false or misleading if:
 - (1) The chiropractor/chiropractic physician charges a fee for any chiropractic service conducted within 24 hours after performing a chiropractic service that was advertised as being free;
 - (2) The chiropractor/chiropractic physician bills an insurance company or third-party payee for a service that has been offered through an advertisement to a prospective patient as free without explaining to the prospective patient which services are billable and which are free;
 - (3) It contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
 - (4) It is likely to create an unjustified expectation about the results the chiropractor/chiropractic physician can achieve, or states or implies that the chiropractor/chiropractic

physician can achieve results by means that violate these regulations or the Uniform Credentialing Act;

- (5) It compares the chiropractor's/chiropractic physician's services with other chiropractor's/chiropractic physician's services, unless the comparison can be factually substantiated.
- b. Subject to the requirements of these regulations a chiropractor/chiropractic physician may advertise services through public media, such as a telephone directory, newspaper, magazine or other periodical, radio or television, or through written communication. A copy or recording of an advertisement or written communication will be kept for one year after its dissemination along with a record of when and where it was used.
- c. A chiropractor/chiropractic physician or any person designated, contracted, or paid by a chiropractor/chiropractic physician must not solicit professional employment as a chiropractor/chiropractic physician for him/herself, his/her partner or his/her associate, from any person when the professional employment concerns the evaluation or treatment of any injury or potential injury that relates to an accident or disaster involving the person to whom the solicitation is directed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the solicitation. This prohibition does not apply to any contact with any person who has sought his/her advice regarding employment of a chiropractor/chiropractic physician or other health care provider. The term "solicit" includes contact in person or by telephone, directed to a specific recipient.
- d. A chiropractor/chiropractic physician cannot enter into an agreement to charge or collect a fee for professional employment obtained in violation of 172 NAC 29-008.02, item 17.h;
- e. A chiropractor/chiropractic physician must not accept professional employment when s/he knows or reasonably should know that the person who seeks his/her services does so as a result of conduct by any person prohibited pursuant to 172 NAC 29-008.02, item 17.h;
- f. Any written communication from a chiropractor/chiropractic physician or his/her agent that is prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member must disclose how the chiropractor/chiropractic physician or his/her agent obtained the information prompting the communication. The disclosure required by this regulation must be specific enough to help the recipient understand the extent of the chiropractor's/chiropractic physician's knowledge regarding the recipient's particular situation;
- g. A chiropractor/chiropractic physician cannot compensate or give anything of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item;
- h. A chiropractor/chiropractic physician or any person designated, contracted, or paid by a chiropractor/chiropractic physician cannot

- solicit professional employment as a chiropractor/chiropractic physician for himself/herself, his/her partner or associate, either through direct contact or through a written communication to, a potential patient, if:
- (1) The chiropractor/chiropractic physician knows or reasonably should know that the physical, emotional, or mental state of the person is such that the person could not exercise reasonable judgment in employing a chiropractor/chiropractic physician;
 - (2) The person has made known to the chiropractic/chiropractic physician or his/her agent a desire not to receive communications from the chiropractor/chiropractic physician; or
 - (3) The communication involves coercion, duress, fraud, misrepresentation, overreaching, harassment, intimidation, or undue influence.
- i. If a chiropractor/chiropractic physician advertises a fee for a service, the chiropractor/chiropractic physician must render that service for no more than the fee advertised;
 - j. Unless otherwise specified, if a chiropractor/chiropractic physician advertises fee information, the chiropractor/chiropractic physician is bound by any representation made therein for a period of not less than 30 days after such advertisement;
 - k. On the front of each envelope in which an advertisement of a chiropractor/chiropractic physician is mailed or delivered on or the front of each post card, if the advertisement is printed on a post card, must be the words: "This is an advertisement." These words must be printed in type size at least as large as the print of the address and must be located in a conspicuous place on the envelope or card;
 - l. An advertisement or written communication of a chiropractor/chiropractic physician seeking professional employment by a specific potential patient cannot reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the potential patient's medical problem;
18. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
 19. Failure to safeguard the patient's dignity and right to privacy;
 20. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
 21. Practicing chiropractic in this state without a current Nebraska license; and
 22. Failure to comply with a patient's authorization to provide records pursuant to Neb. Rev. Stat. §§ 71-8401 to 71-8407;
 23. Practicing the profession of chiropractic while his/her license is suspended or in contravention of any limitation placed upon his/her license;
 24. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination requested by the Board, pursuant to Neb. Rev. Stat. §§ 38-1,110 to 38-1,113 to determine his/her qualifications to practice or to

- continue in the practice of the profession or occupation for which application was made or for which s/he is licensed;
25. Failure to make credential available upon request: Every person credentialed under the Uniform Credentialing Act must make the person's current credential available upon request. All signs, announcements, stationery, and advertisements of persons credentialed under the act shall identify the profession or business for which the credential is held;
 26. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Department or its investigator with requested information or requested documents; and/or
 27. Committing any act which endangers patient safety or welfare.

29-008.03 Temporary Suspension or Limitation

29-008.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 29-008.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

29-008.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

29-008.03C A temporary suspension or temporary limitation of a credential under 172 NAC 29-008.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

29-008.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

29-008.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;

5. Suspension; or
6. Revocation.

29-008.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 29-008.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

29-009 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

29-009.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

29-009.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

29-009.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

29-009.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

29-009.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

29-009.06 Reinstatement following voluntary surrender is set out in 172 NAC 29-010.

29-010 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status,

- voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
 3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
 4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

29-010.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
 - d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in

172 NAC 29-006 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);

- (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 29-008 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

29-010.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

29-010.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

29-010.01C The Department will act within 150 days on all completed applications.

29-010.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

29-010.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 29-010.01.

29-010.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant must on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;

- (3) Fax number; and
- d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 29-006 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced; and
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 29-008 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts;
 - (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee: The renewal fee.

29-010.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

29-010.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;

5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

29-010.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 29-010.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 23-011, in which case a separate notice of opportunity for hearing will be sent to the applicant.

29-010.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

29-010.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

29-010.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the

Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.

- b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

29-010.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

29-010.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

29-010.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

29-011 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

29-011.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. Water well registration or other government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

29-011.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien

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- foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
- f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

29-011.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

29-012 METHOD OF IDENTIFICATION: Every person credentialed as a chiropractor/chiropractic physician shall make his/her current credential available upon request. The method of identification shall be clear and easily accessed and used by the consumer. Identification may be done by the following methods: verbally; through signage; and/or written medium. All signs, announcements, stationery, and advertisements of chiropractors/chiropractic physicians, shall identify the profession. The initials DC/CP are acceptable identifiers.

29-013 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

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Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

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TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATION AND LICENSURE - CREDENTIALING DIVISION
REGULATIONS

CHAPTER 30 - REGULATIONS DEFINING AND GOVERNING THE USE OF ROUTINE
PROCEDURES BY CHIROPRACTORS

001 Scope. A chiropractic practitioner who accepts a patient for any professional reason has a duty and responsibility to perform an appropriate clinical evaluation on that patient for the purpose of assessing the patient's current health status to identify if the patient is a proper subject for chiropractic care. Such a clinical evaluation may involve diagnostic procedures which aid in arriving at a clinical impression. The diagnostic procedures may include urine and blood analysis.

The role of clinical laboratory diagnosis in chiropractic has evolved since the inception of the profession to where currently, laboratory diagnosis courses are taught at all accredited chiropractic colleges.

The chiropractic practitioner, as a portal of entry health care provider, has the responsibility to perform an appropriate clinical examination for the purpose of assessing a patient's current health status to identify if the patient is a proper subject for chiropractic care. The clinical laboratory can provide useful information when the findings from the clinical examination are insufficient to answer the questions at hand. The decision to order a test is made on the assumption that the results will appreciably reduce the uncertainty surrounding a given clinical question and significantly change the pre-test probability that a disorder is present. Clinical laboratory procedures listed in section 003 of these regulations may be ordered or performed by chiropractors. All clinical laboratory tests ordered or performed shall be in concordance with the premises set forth in section 002 of these regulations.

002 Premises.

002.01 The purpose for using clinical laboratory procedures in chiropractic practice is for diagnosis and potential referral.

002.02 The practitioner should select only those clinical laboratories that meet federal accreditation standards.

002.03 The practitioner who performs office laboratory procedures carries out testing in a manner which meets state and/or federal regulations, and is consistent with quality laboratory practice.

002.04 The practitioner makes sure the patient is adequately prepared for laboratory testing by verifying that the patient understands any special instructions to assure adequate specimens necessary to generate valid laboratory results.

002.05 The practitioner assures that in-office laboratory specimens are appropriately collected and preserved.

002.06 Laboratory procedures may be appropriate when the information available from the history and chiropractic examination is considered insufficient to conclude that the patient's presenting condition(s) can be addressed by chiropractic care.

002.07 The practitioner selects a laboratory test(s) appropriate for the purpose of ruling out a specific condition(s) or confirming a strong clinical suspicion by considering the sensitivity and specificity of the test(s) and estimating the likelihood of the condition(s) based on his or her assessment of the available clinical information.

002.08 The practitioner has an understanding of conventional laboratory reference values in order to appropriately interpret laboratory results.

002.09 The practitioner effectively discusses with the patient the purposes, possible complications, and clinical significance of the results of laboratory studies conducted or ordered.

002.10 Clinical laboratory results are recorded in the patient record.

002.11 The practitioner seeks medical assistance when uncertain about appropriate test selection, patient preparation, and/or interpretation of laboratory results.

002.12 The use of profiles which focus on an organ system and/or health problem in a symptomatic patient can be considered a cost-effective and efficient procedure for generating appropriate laboratory data to help confirm or rule out a diagnosis or clinical impression.

002.13 Novel or non-conventional applications of established laboratory procedures, e.g., the use of cytotoxic testing for food allergies or Reams testing and interpretation of urine, are not used in chiropractic practice as a substitute for conventional applications of laboratory procedures in the clinical decision-making process.

003 Routine Clinical Laboratory Procedures. For the purpose of these regulations, routine clinical laboratory procedures appropriate for chiropractic practice which may be ordered and/or performed by chiropractors shall include the following:

- 003.01 Routine Urinalysis
- 003.02 Complete Blood Count with or without differential
- 003.03 Erythrocyte Sedimentation Rate
- 003.04 Biochemical Profiles including tests listed in this section
- 003.05 Blood Glucose
- 003.06 Serum Urea Nitrogen and Creatinine
- 003.07 Serum Calcium
- 003.08 Serum Inorganic Phosphorus
- 003.09 Serum Total Protein and Albumin
- 003.10 Serum Cholesterol
- 003.11 Serum Alkaline Phosphatase
- 003.12 Serum Prostate-Specific Antigen
- 003.13 Serum Aspartate Aminotransferase
- 003.14 Serum Creatine Kinase
- 003.15 Thyroid Screens including T3, T4, and TSH-HS (sTSH)
- 003.16 Serum Uric Acid
- 003.17 Rheumatoid Factor
- 003.18 Anti-Nuclear Antibody Test
- 003.19 HLA-B27 Test
- 003.20 C-Reactive Protein Test
- 003.21 Serum Potassium Test
- 003.22 Serum Sodium Test
- 003.23 Serum Iron and Total Iron-Binding Capacity Test
- 003.24 Fecal Occult Blood Test
- 003.25 Serum Ferritin Test
- 003.26 Triglycerides

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 34 SANITATION AND SAFETY RELATING TO NAIL TECHNOLOGY SERVICES

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 34 SANITATION AND SAFETY RELATING TO NAIL TECHNOLOGY SERVICES

34-001 Scope and Authority: These regulations apply to the safe practice of nail technology by cosmetologists, nail technicians, and students within cosmetology and nail technology establishments as defined in Neb. Rev. Stat. §§ 71-340 through 71-3,238. In order to be properly credentialed with the Department of Health and Human Services Regulation and Licensure, the owners of establishments, cosmetologists, nail technicians, and students must comply with these regulations.

34-002 Definitions

Closed/covered receptacle, container, bottles, and/or drawer means fitting tightly with a lid, door, or shutting of a drawer and may have vents.

Conspicuous place means reception area, clinical area or any area where visible and accessible to the public.

Disinfectant means an EPA-registered hospital grade disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal, used in accordance with the manufacturer's instructions for mixing and immersion.

Disinfection means cleansing to remove agents of infection, disease or infestation by insects or vermin and soil, dust, or foreign material.

Dry-use implements means a tool that melts when wet, for example wood or cardboard.

Enclosed container, drawer, and/or cabinet means fitting tightly with a lid, door, or shutting of a drawer and does not have vents.

Equipment means those items needed to operate an establishment which are usually considered stationary, for example, waiting chairs, nail technology client chairs, cabinets, sinks, nail technology tables and stools.

Establishment means a cosmetology establishment that includes a cosmetology salon, apprentice salon, or school of cosmetology and any nail technology establishment that includes a nail technology salon or nail technology school.

EPA means the United States Environmental Protection Agency.

Implement means nail file, nail nipper, cuticle pusher, nail clipper, artificial nail tip cutter, nail drill bit, or other similar items.

MMA means methyl methacrylate monomers.

Nail technology student means a person engaged in the study of the practices of nail technology under the supervision of a nail technology instructor in a nail technology school.

Station means a nail table, client chair, and licensee chair.

Student means a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology or esthetics under the supervision of an instructor or esthetics instructor in a school of cosmetology or school of esthetics.

Supplies/materials means cotton balls/cotton pads, manicure brushes, product application brushes, orangewood sticks, or other similar items.

Washable implement means a tool that is sanitizable or disinfectable, such as one made of mylar, plastic, metal, or cloth.

Wet-sanitizer means a closed receptacle which holds the disinfectant solution.

34-003 Documents Posted: The owner must ensure that the following documents are posted in each establishment, in a conspicuous place:

1. A copy of the regulations governing sanitation and safety, for the information and guidance of all persons employed or studying therein and for the general public;
2. The most recent rating sheet, for the information of the general public, students, and employees; and
3. The most current licensure renewal card for each person practicing within the establishment, for public viewing (photocopies are not acceptable).

34-004 Personal Cleanliness: The owner must ensure that the following procedures for personal cleanliness are observed in the establishment.

34-004.01 Attire: Every cosmetologist, nail technician, and student, while engaged in serving students or the public must be clean in person and in attire, and free from any communicable disease, which may be communicated in the usual course of practice.

34-004.02 Licensee Hand Cleanliness: Every cosmetologist, nail technician, and student must:

1. Wash his/her hands thoroughly with liquid soap and water or an instant hand sanitizer, before serving each client;
2. Change gloves upon contamination; and
3. Use gloves that are free of tears or holes.

34-004.03 Client Hand Cleanliness: Every client must thoroughly wash his/her hands with liquid soap and water or an instant hand sanitizer at the establishment, before receiving nail technology services.

34-005 Physical Structure: The owner must ensure that the establishment is well lighted, well ventilated and kept in a clean, orderly, sanitary condition at all times.

34-006 Ventilation: The owner must ensure that a consistent fresh air supply is provided to the establishment. S/he may do so by using one or more of the following:

1. A ventilation system which is in good, working condition; or
2. A furnace or air conditioner in which:
 - a. The air distribution system filters are cleaned or replaced annually or more often if needed to avoid restriction of airflow; and
 - b. The furnace fan setting is placed on "continuous" or "on" setting at all times the salon is occupied to ensure fresh air is coming into the salon;
3. Open windows/doors and a fan to provide and circulate fresh outside air; or
4. Portable fans and ceiling fans, which are clean and have no worn or bare wiring and are operated in a safe manner.

34-007 Water

34.007.01 The owner must ensure that the establishment has a supply of hot and cold running water in sufficient quantities to conduct the establishment in a sanitary manner, specifically that:

1. In cities or villages in which an authorized public water supply is available, the establishment must be connected to the public water supply; and
2. Hot water tanks and receptacles must have a capacity of ten gallons or more.

34-007.02 The owner must ensure that wastewater is disposed of through a system that carries it away from buildings and is either:

1. A public sewer connection; or
2. A private disposal system that complies with state law, city or village ordinances, and local health authority requirements.

34-008 Safety: The owner must maintain the establishment in a safe condition. S/he must ensure that:

1. Floors, floor coverings, walls, woodwork, ceilings, furniture, fixtures and equipment are clean and in good repair;
2. Floors are free of unsafe objects and slippery or uneven surfaces;
3. Doors, stairways, passageways, aisles or other means of exit provide safe and adequate access;
4. Electrical appliances or apparatus are clean and have no worn or bare wiring to avoid fires, shocks, and electrocution; and
5. Water or product spills on the floor are removed immediately and floor dried to avoid falls.

34-009 Restroom Facilities: The owner must keep restrooms clean, orderly, and sanitary at all times.

34-009.01 The owner must ensure that:

1. Chemicals are not stored in the restroom, except in a locked cabinet;
2. The following are available at all times:
 - a. Suitable holders for toilet paper;
 - b. An adequate supply of toilet paper;
 - c. A clean waste receptacle;
 - d. Hot and cold running water;
 - e. Liquid soap;
 - f. Single-use disposable towels; and
 - g. Appropriate, clean towel holders.

34-010 Hand Washing Facilities: The owner must ensure that hand washing facilities are located within the establishment (except those licensed on or before January 31, 2000). Hand washing facilities must be clean and safe and have:

1. Hot and cold running water;
2. Clean cloth or disposable towels;
3. Suitable, clean towel holders;
4. Liquid soap; and
5. A clean waste receptacle.

34-011 Laundry Facilities: If the establishment has a laundry facility, the owner must ensure that:

1. It is clean, including the washer and dryer;
2. It has a closed receptacle in which to store soiled towels; and
3. The equipment is used for the establishment laundry only, not personal items.

34-012 Nail Technology Tables and Chairs

34-012.01 The owner must ensure that all tables and chairs are in good repair and in a sanitary condition at all times.

34-012.02 Cosmetologists, nail technicians, and students must disinfect table tops immediately following each client.

34-013 Storage: The owner must ensure that storage within the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.

1. Flammable and combustible chemicals are stored away from potential sources of ignition such as an open flame or an electrical device;
2. All nail care chemicals are stored in closed bottles or containers;

3. No nail care chemicals are stored:
 - a. Where food is kept; or
 - b. In the restroom, unless in a locked cabinet;
4. Storage units:
 - a. Cabinets, drawers, containers used for storage of implements and towels are clean;
 - b. Clean linen is stored in an enclosed, dust-proof cabinet or container;
 - c. Implements which have been used on a client are not placed in a container with clean implements;
5. Supplies:
 - a. Unused supplies, except product application brushes, are stored in a clean, closed container or drawer;
 - b. Used/soiled disposable supplies are discarded immediately in a clean, closed waste receptacle;
6. Implement Storage:
 - a. Implements that have been used on a client or soiled in any manner are placed in a properly labeled covered receptacle until disinfected;
 - b. Sanitized implements are stored in a clean closed container or drawer until used;
7. Individual Client Containers: Individual containers made of paper, cardboard, or plastic may be used to store implements or supplies used only by one client.
 - a. The container must identify the client by name; and
 - b. The individual client's files and orangewood sticks must be sanitized using the method outlined in 172 NAC 34-019.02 before storage.

34-014 Material Safety Data Sheet (MSDS): The owner must ensure that an MSDS for every product pertaining to nail technology client services is accessible at all times, to all employees.

34-015 Towels: The owner must ensure that the use of towels in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.

34-015.01 Used/Soiled Towel Storage:

1. Cloth towels are deposited in a closed receptacle after use;
2. Used/soiled cloth towels are not used again until properly laundered and sanitized;
3. Disposable towels are discarded in a covered waste receptacle immediately following each nail technology service;

34-015.02 Laundry: Cloth towels are laundered either:

1. By regular commercial laundering; or
2. By a noncommercial laundering process which includes immersion in water at 140 degrees Fahrenheit for not less than fifteen minutes during the washing or rinsing operation;

34-015.03 Clean Towel Storage: All clean towels are stored in a clean, enclosed, dust-proof cabinet or container until used.

34-016 Products: The owner must ensure that the use of products in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.

1. No product containing MMA is used in the establishment;
2. All liquids, creams, and other products are kept in clean, closed containers;
3. Original product bottles and containers have an original manufacturer label that discloses their contents;
4. When only a portion of the product, except for nail polish, is to be used on a client, the product is removed from the container by a spatula, scoop, spoon, or dropper so that the remaining product is not contaminated;
5. If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container is labeled to identify the product. Dappen dishes do not need labeling; and
6. Oils, lotions, liquids, creams, and similar products, are dispensed by pump, squirt bottle, or dropper.

34-017 Supplies and Materials: The owner must ensure that the use of supplies and materials in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.

1. Washable and disinfectable hand or nail dusters, such as plastic or nylon, may be used;
2. No non-washable or non-disinfectable hand or nail dusters, such as sable or fabric, are used;
3. No chamois buffers are used;
4. Manicure brushes must be disinfected after each use;
5. Client hand supports have plastic or vinyl coverings;
6. Supplies and implements which come in direct contact with a client and cannot be disinfected, such as cotton pads, cotton balls, orangewood sticks, "Q-tips", and other similar items, are disposed of in a covered waste receptacle, with a plastic liner, immediately after use;
7. A wet sanitizer(s) must be available for sanitizing implements;
8. A covered waste receptacle, with a plastic liner, is located at each station; and
9. Product application brushes are clean.

34-018 Implements and Nail Drill Bits: The owner must ensure that the use of implements and nail drill bits in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.

34-018.01 Dry-Use Implements

34-018.01A Dry use implements and nail drill disposable bands are discarded in a closed waste receptacle immediately after use.

34-018.01B Exception: Reuse of a File on the Same Client: If the file is to be reused on the same client, the cosmetologist, nail technician, or student:

1. May keep the file in a container labeled with the client's name; and
2. If the file is kept, must disinfect the file as described in 172 NAC 34-019.02.

34-018.02 Washable files and nail drill bits are disinfected as described in 172 NAC 34-019.01.

34-018.03 No coarse nail drill bands are used.

34-019 Methods of Disinfection: The owner must ensure that all implements are disinfected before use on a client, by using the following procedures. Cosmetologists, nail technicians, and students must comply with the following requirements.

34-019.01 Immersion or Spray Implement Disinfection

1. Remove foreign matter;
2. Wash hands with liquid soap and water or an instant hand sanitizer;
3. Select and use either immersion or spray method:
 - a. Immersion method: Place the implement in an EPA-registered hospital grade disinfectant:
 - (1) The disinfectant must be proven effective against HIV-1, Hepatitis B, or Tuberculocidal;
 - (2) The disinfectant solution must be deep enough to cover implements totally; and
 - (3) The implements must stay in the disinfectant solution for ten minutes or more;
 - b. Spray method: Spray the implement until it is totally saturated with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal;
4. Before removing the sanitized implement(s), wash hands with liquid soap and water or an instant hand sanitizer;
5. Air-dry on a sanitary surface, dry with a clean sanitized towel, or dry with an electric air sanitizer; and
6. Store in a clean enclosed cabinet or covered container reserved for clean implements.

34-019.02 Disinfection of Files Used Repeatedly on the Same Client:

1. Remove foreign matter;
2. Spray with disinfectant solution;
3. Air dry on a sanitary surface or dry with a clean sanitized towel;
4. Store in individual clean client containers; and
5. Re-use files no more than five times.

34-019.03 Disinfection of Metal Implements: All metal implements must be immersed in a disinfectant following the procedures in 172 NAC 34-019.01 except that artificial nail tip cutters may be sprayed with disinfectant.

34-020 Disinfectant Solution Storage and Cleanliness: The owner must ensure that the use of disinfectant solution in the establishment meets the following requirements. Cosmetologists, nail technicians, and students must comply with the following requirements.

1. The disinfectant solution remains covered at all times;
2. The disinfectant solution is changed whenever visibly cloudy or dirty but no less often than once a week; and
3. Follow manufacturer's directions for mixing.

34-021 Disinfecting Electrical Implements: The owner must ensure that the use and sanitation of electrical implements such as, drills, airbrush machines, polish dryers, gel lights, footbaths/footspas, paraffin wax machines meets the following specifications. Cosmetologist, nail technicians, and students must comply with the following requirements.

34-021.01 Electrical implements have no bare or worn wires.

34-021.02 Electrical implements generally are disinfected by the following method:

1. Remove all foreign matter;
2. Spray with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal; and
3. Wipe dry with a clean towel.

34-021.03 Footbaths/footspas are disinfected by the following procedures:

1. Between each customer:
 - a. Drain all water;
 - b. Remove all foreign matter;
 - c. Spray with an EPA-registered disinfectant, proven effective against HIV-1, Hepatitis B, or Tuberculocidal; and
 - d. Wipe dry with a clean towel.
2. At the end of the day:
 - a. Remove the screen;
 - b. Clean out all foreign matter trapped behind the screen of each footbath/footspa;

- c. Spray the screen and the area behind the screen with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal; and
- d. Wipe dry the screen and area behind the screen with a clean towel.

34-021.04 Paraffin wax used by one client can not be re-melted and used by another client.

34-022 Infectious Disease: The owner must observe the following requirements to prevent the transmission of infectious or communicable diseases:

1. No person afflicted with an infectious or communicable disease which may be transmitted during the performance of the acts of nail technology is permitted to work or train in an establishment.
2. No client known to have an any infectious or communicable disease which may be transmitted during the performance of the acts of nail technology is permitted to receive nail technology services.

34-023 Blood Spill Procedures: The owner must ensure that the following occurs when a client or the licensee/student is injured during a service and a blood spill occurs. Cosmetologists, nail technicians, and students must comply with the following requirements.

1. Procedure for client injury:
 - a. Stop service;
 - b. Scrub licensee/student hands with soap and water;
 - c. Glove hands of licensee/student;
 - d. Change gloves upon contamination, tearing, or penetration;
 - e. Clean client's injured area, as necessary;
 - f. Apply antiseptic and/or styptic, as necessary;
 - g. Do not use styptic pencils;
 - h. Cover with a band aid or liquid sealant;
 - i. Clean blood spill area;
 - j. Place all disposable contaminated objects and gloves in a plastic bag;
 - k. Dispose of plastic bag in covered waste receptacle;
 - l. Clean hands with liquid soap and water;
 - m. Clean non-disposable tools with a disinfectant; and
 - n. Return to service.
2. Procedure for cosmetologist, nail technician, or student injury:
 - a. Stop service;
 - b. Clean injured area with soap and water;
 - c. Apply antiseptic and/or styptic as necessary;
 - d. Do not use styptic pencils;
 - e. Cover with a band aid or liquid sealant;
 - f. Clean blood spill area, as necessary;
 - g. Place all disposable contaminated objects and gloves in a plastic bag;
 - h. Dispose of plastic bag in covered waste receptacle;
 - i. Clean hands with liquid soap and water;
 - j. Clean non-disposable tools with a disinfectant; and
 - k. Return to service.

34-024 Home Services Kits: The owner must ensure that the use of home service kits meets the following requirements. Cosmetologists and nail technicians must comply with the following requirements.

1. Home service kits are available for inspection at the salon or at the home of the client receiving services;
2. The kit and all products within the kit are maintained in a sanitary condition;
3. The kit contains items required for the service being provided;
4. Only clean linens are in the kit;
5. Towels stored in the kit are in a clean, dust-proof, and waterproof container;
6. Used/soiled linens are placed in a leak-proof container for transport to the laundering site;
7. Products transported in home services kits are not exposed to excessive cold or heat; and
8. The cosmetologist or nail technician uses the disinfectant methods described in 172 NAC 34-019 following the service.

34-025 Student Kits: The owner must ensure that student kit items which have been used by a student who has ceased training are not reissued to another student.

34-026 Implements, Supplies, Products, or Activities That Are Not Allowed

34-026.01 The owner must ensure that none of the following are present in the establishment. Cosmetologist, nail technicians, and students must not use or bring into the establishment any of the following:

1. Credo blades and other implements used for cutting nail beds, corns, or calluses;
2. Chamois buffer;
3. Products containing MMA;
4. Sable or fabric nail dusters;
5. Styptic pencils;
6. Coarse nail drill bands; and
7. Cabinet fumigants.

34-026.02 While in the establishment, the owner, cosmetologists, nail technicians, and students must not engage in or allow any other person, including clients, to engage in any of the following activities:

1. Smoking on the clinic floor;
2. Consuming food in any area where nail services are being taught or performed, except that clients may be allowed to consume food;
3. Storing food in the same area where chemical supplies are used or stored; or
4. Using, consuming, serving, or in any manner possessing or distributing intoxicating beverages or controlled substances upon its premises during the hours the establishment is open to the public or students and/or while any services are being performed.

34-026.03 The owner, cosmetologists, nail technicians, and students must not bring or permit animals, including pets, in the establishment except for the following:

1. Animals used as guides for visually impaired or hearing-impaired persons, or service dogs for physically disabled; or
2. Fish in covered aquariums.

34-027 Compliance: The owner must ensure that each manager, licensee, and student present in the establishment understands his/her personal responsibility to observe these rules of sanitation and safety at all times that the establishment is open for business to students or the public.

Approved by the Attorney General: January 11, 2005
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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 36 PRACTICE OF COSMETOLOGY, ELECTROLOGY, ESTHETICS, AND
NAIL TECHNOLOGY

36-001 SCOPE AND AUTHORITY: These regulations govern the practice of cosmetology as defined by Neb. Rev. Stat. §§ 71-340 to 71-3,235 and the Uniform Licensing Law.

36-002 DEFINITIONS

Apprentice means a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology under the supervision of an instructor in an apprentice salon.

Apprentice Salon means a cosmetology salon licensed under the Nebraska Cosmetology Act to serve as the site for the teaching of any or all of the practices of cosmetology to apprentices.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Cosmetology Examiners.

Completed Application means an application with all information requested on the application supplied, the signature of the applicant(s), fees, and all required documentation submitted.

Continuing Competency means to ensure:

1. The maintenance by a credentialed person of knowledge and skills necessary to competently practice cosmetology, electrology, esthetics, or nail technology,
2. The utilization of new techniques based on scientific and clinical advances, and
3. The promotion of research to assure expansive and comprehensive services to the public.

It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. § 71-161.09. Competency may be earned through one or more of the following activities:

1. Continuing Education Program;
2. Homestudy;
3. CPR/First Aid;
4. Equipment Use;
5. Product Knowledge;
6. Marketing;
7. Academic Credit (college/university/technical school);
8. Licensure Examination;
9. People Skills/Special Needs (other similar titles);
10. Schools of Barbering, Cosmetology, Electrology, Esthetics, Nail Technology; and
11. Safety/Sanitation.

Cosmetic Establishment means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the retail sale of cosmetics or other esthetics products when such activity includes any application of the products to customers other than self-application.

Cosmetician means a person registered under the Nebraska Cosmetology Act to apply cosmetics.

Cosmetologist means a person licensed under the Nebraska Cosmetology Act to perform all of the practices of cosmetology.

Cosmetology means the practice of performing for compensation:

1. Any or all of the acts of arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, styling, or similar work upon the hair, wig, wiglet, or hairpiece of any person, by any means, with hands or a mechanical or electrical apparatus or appliance;
2. Esthetics;
3. Nail technology; and
4. Other similar practices upon the hair, scalp, face, neck, arms, hands, feet, or nails of any person when performed for the purpose of beautifying or enhancing physical appearance or the teaching of any practice specified in this section for occupational purposes.

Cosmetology Establishment means a cosmetology salon, esthetics salon, school of cosmetology, school of esthetics, apprentice salon, cosmetic establishment, or any other place in which any or all of the practices of cosmetology are performed on members of the general public for compensation or in which instruction or training in any or all of the practices of cosmetology is given, except when such practices constitute nonvocational training.

Cosmetology Salon means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the performance of any or all of the practices of cosmetology by persons licensed or registered under such act.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Division means the Credentialing Division of the Department of Health and Human Services Regulation and Licensure, of the State of Nebraska.

Domestic Administration means the performance of any or all of the practices of cosmetology or nail technology upon members of a person's immediate family.

Electrologist means a person who engages in the practice of electrolysis for permanent hair removal.

Electrology means the art and practice relating to the removal of hair from normal skin of the human body by electrolysis.

Electrology Establishment means a fixed structure or part thereof or any other place in which any or all of the practices of electrology are performed on members of the general public for compensation or where instruction or training in electrology is performed except when such training is nonvocational training.

Electrology Instructor means a person licensed under the Nebraska Cosmetology Act to teach any or all of the practices of electrology.

Electrolysis means the permanent removal of hair by the application of an electrical current to the dermal papilla by a filament to cause decomposition, coagulation, or dehydration within the hair follicle by means of short wave or galvanic current or the blend, as approved by the federal Food and Drug Administration.

Esthetician means a person licensed under the Nebraska Cosmetology Act to perform all of the practices of esthetics.

Esthetics means the practice for compensation of using an electrical or mechanical apparatus or appliance or applying and using cosmetic preparations, antiseptics, chemicals, tonics, lotions, creams, or other similar products upon the skin for personal beauty care.

Esthetics Instructor means a person licensed under the Nebraska Cosmetology Act to teach any or all of the practices of esthetics in a school of cosmetology or a school of esthetics.

Esthetics Salon means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the performance of any or all of the practices of esthetics by persons licensed or registered under such act.

Guest Artist means a person registered under the Nebraska Cosmetology Act to demonstrate cosmetology products or procedures for the purpose of imparting professional knowledge and information to persons licensed or registered under the Nebraska Cosmetology Act or to persons owning or operating licensed cosmetology establishments under the sponsorship of a licensed cosmetology establishment or a cosmetologist licensed in Nebraska.

Inactive Status means the voluntary termination of the right or privilege to practice as a cosmetologist, cosmetology instructor, electrologist, electrology instructor, esthetician, esthetics instructor, nail technician, or nail technology instructor. The licensee retains the right or privilege to represent himself or herself as having an inactive license.

Instructor means a person licensed under the Nebraska Cosmetology Act to teach any or all of the practices of cosmetology in a school of cosmetology or an apprentice salon.

Jurisdiction means the District of Columbia and any state, territory, or possession of the United States of America.

Licensure Examination means a written and practical examination approved by the Board.

1. The written examination relates to the theory of the practice and may be administered by paper/pencil or electronically.
2. The practical examination relates to the practical skills of the practice, may be in a written or practical format, and may be administered by paper/pencil or electronically.

Manicuring means the practice of performing any or all of the acts of cutting, shaping, trimming, polishing, coloring, tinting, cleansing, reshaping, or other similar cosmetic or sanitary acts on the natural fingernails or toenails of a person but does not include the practice of nail technology.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 36.

Nail Technician means a person licensed under the Nebraska Cosmetology Act to perform the practices of nail technology.

Nail Technology means:

1. Attaching, applying, fitting, shaping, or adjusting artificial nails using acrylic, resin, fabric, or gel application systems,
2. Sanitizing of the nail bed by brushing on or spraying material in preparation for attaching, fitting, shaping, or adjusting artificial nails using acrylic, resin, fabric, or gel application systems,
3. Cutting, filing, buffing, shaping, trimming, polishing, coloring, tinting, cleansing, reshaping, or other cosmetic acts on the nails of a person when done in conjunction with the activities described in subdivisions (1) and (2) of this section,
4. The ability to detect infection, fungus, or nail disorders that contraindicate the application of artificial nails, and
5. Cleansing, stimulating, manipulating, exercising, or similar acts on the hands or feet of any person when done in conjunction with the activities described in subdivisions (1) and (2) of this section.

Nail technology does not include cutting nail beds, corns, or calluses or medical treatment involving the feet, hands, or nails.

Nail Technology Establishment means a nail technology salon, nail technology school, or any other place in which the practices of nail technology are performed on members of the general public for compensation or in which instruction or training in the practices of nail technology is given, except when such practices constitute nonvocational training.

Nail Technology Instructor means a person licensed under the Nebraska Cosmetology Act to teach the practices of nail technology in a nail technology school.

Nail Technology Salon means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the performance of the practices of nail technology by persons licensed or registered under the act.

Nail Technology School means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for teaching the practices of nail technology to nail technology students.

Nail Technology Student means a person engaged in the study of the practices of nail technology under the supervision of a nail technology instructor in a nail technology school.

Nail Technology Student Instructor means a person engaged in nail technology instructor's training in a nail technology school to teach nail technology students in a nail technology school under the supervision of a nail technology instructor.

Nail Technology Temporary Practitioner means a person registered under the Nebraska Cosmetology Act to perform the practices of nail technology for a limited time under the supervision of a licensed nail technician or nail technology instructor.

Nonvocational Training means the act of imparting knowledge of or skills in any or all of the practices of cosmetology, nail technology, esthetics, or electrology to persons not licensed or registered under the Nebraska Cosmetology Act for the purpose of noncommercial use by those receiving such training.

Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or similar entity and includes any trustee, receiver, assignee, or personal representative thereof.

Practitioner means a person who performs any or all of the practices of cosmetology, nail technology, esthetics, or electrology for compensation.

Provider means an association, educational institution, group, or individual licensee who is responsible for organizing a continuing education or homestudy program and requesting and receiving approval from the Board for that program.

School of Cosmetology means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the teaching of any or all of the practices of cosmetology to students.

School of Electrolysis means a school for the education and training of electrologists.

School of Esthetics means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for teaching the practices of esthetics to esthetics students.

Student means a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology or esthetics under the supervision of an instructor or esthetics instructor in a school of cosmetology or school of esthetics.

Student Instructor means a person registered under the Nebraska Cosmetology Act to engage in instructor's or esthetics instructor's training in a school of cosmetology or school of esthetics and to teach students in a school of cosmetology or school of esthetics under the supervision of an instructor.

Supervision means direct day-to-day knowledge of and control over the actions of one individual by another.

Teaching means the act of imparting and demonstrating knowledge of cosmetology, nail technology, esthetics, or electrology theory and practices to students, nail technology students, or apprentices in an apprentice salon, a school of cosmetology, a nail technology school or a school of esthetics by an instructor, an esthetics instructor, a nail technology instructor, a nail technology student instructor, or a student instructor for the purpose of preparing the students, nail technology students, nail technology student instructors, or apprentices to engage in the occupations of cosmetology, nail technology, esthetics, or electrology.

Temporary Practitioner means a person registered under the Nebraska Cosmetology Act to perform any or all of the practices of cosmetology for a limited time under the supervision of a person licensed under such act.

Verified means sworn to before a notary public or equivalent title.

36-003 COSMETOLOGY LICENSURE: Any person who engages in, or follows, or advertises, or holds oneself out as engaging in or following any of the practices of cosmetology or acts as a practitioner must be licensed. Licensure is required before any person may engage in the full, unsupervised practice of cosmetology, and no person may assume the title of cosmetologist without first being licensed by the Department pursuant to the Nebraska Cosmetology Act. The criteria for issuance of licensure and the documentation required by the Department and the Board are set forth below.

36-003.01 Licensure by Examination

36-003.01A Requirements: An applicant for licensure to practice as a cosmetologist by examination must:

1. Have attained the age of 17 years on or before the beginning date of the examination;
2. Have completed formal education equivalent to a United States high school education;
3. Possess the ability to identify and respond to emergency situations that could occur in the practice of cosmetology;
4. Graduate from a school of cosmetology or apprentice salon in Nebraska that has a program of cosmetology studies consisting of:
 - a. At least 2100 hours and 2000 credits;
 - (1) If a lapse in training of 2 years or longer occurs, all hours and credits earned will be forfeited. Hours and credits must be earned exclusively in either a school of cosmetology or apprentice salon. No hours or credits earned in one type of establishment may be transferred to another establishment of

another type; and

5. Have passed the licensure examination with an average score of 75%.

36-003.01B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Verification of successful completion of a basic first aid course. A course approved by the Department may be offered by the school of cosmetology or apprentice salon free of charge, or may be gained at other sites;
4. A photocopy of the diploma or certificate from a school of cosmetology or apprentice salon verifying completion of cosmetology training;
5. A certification by the school of cosmetology or apprentice salon, verifying the student's cosmetology training and completion of at least 2100 hours and 2000 credits by the student;
6. A complete application, on Attachment A attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
7. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
8. One current photograph for identification purposes and entry to the examination;
9. Attestation by the applicant:

- a. That s/he has not practiced in Nebraska prior to the application for a license; or
- b. To the actual number of days practiced in Nebraska prior to the application for a license; and

10. The required licensure fee.

36-003.01C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-003.01D Examination Notification: The Department will notify the applicant of examination eligibility and be forwarded a schedule of the date, time, and place of the examination, and any additional information necessary for taking the examination.

36-003.01E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-003.01F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-003.01G Department Review: The Department will act within 150 days on all completed applications for licensure.

36-003.02 Licensure by Waiver of Examination:

36-003.02A Requirements: An applicant who holds a current license in another jurisdiction and wishes to apply for licensure as a cosmetologist by waiver of examination must:

1. Have attained the age of 17 years on or before the beginning date of the examination administered in the other jurisdiction;
2. Have completed formal education equivalent to a United States high school education;
3. Possess the ability to identify and respond to emergency situations that could occur in the practice of cosmetology;
4. Hold a current license as a Cosmetologist in another jurisdiction issued on the basis of a written and practical examination; and
5. Complete a course of cosmetology studies consisting of at least 2100 hours.

- a. If the applicant does not meet these hour requirements, s/he may meet the requirement through any combination of hours earned as a student or apprentice in a cosmetology establishment licensed or approved by the jurisdiction in which it was located, and hour-equivalents granted for recent work experience. Hour equivalents may be granted in the following manner:
 - (1) 100 hours for each month of full-time practice as a cosmetologist or instructor within the 5 years immediately preceding application.

36-003.02B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Verification of successful completion of a basic first aid course;
4. A certification by the school of cosmetology or apprentice salon, verifying the student's cosmetology training and completion of at least 2100 hours by the student;
5. A complete application on Attachment B attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
6. If the applicant as been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or

- b. To the actual number of days practiced in Nebraska prior to the application for a license;
8. The required licensure fee; and
9. Information from the licensing or certifying agency submitted to the Department that includes:
 - a. A certification on Attachment B1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information, completed, dated, and signed by the agency issuing the original license, that the applicant is duly licensed or certified, that his or her license or certification has never been disciplined or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement. The certification must include the following:
 - (1) The nature of disciplinary actions, if any, taken against the applicant's license;
 - (2) Verification that the applicant's license was based on a written and practical examination, the date of the written and practical examination, and the scores received on each examination;
 - (3) The date of the applicant's license and expiration of such license;
 - (4) The score(s) attained on the examination; and
 - (5) The name of the school of cosmetology attended by the applicant and date of graduation if applicable.

36-003.02C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-003.02D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-003.02E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-003.02F Department Review: The Department will act within 150 days upon all completed applications for licensure.

36-004 ELECTROLOGY LICENSURE: Licensure is required before any person may engage in the full, unsupervised practice of electrology and no person may assume the title of electrologist without first being licensed by the Department pursuant to the Nebraska Cosmetology Act. The criteria for issuance of licensure and the documentation required by the Department and the Board are set forth below.

36-004.01 Licensure by Examination

36-004.01A Requirements: An applicant for licensure to practice as an electrologist by examination must:

1. Have attained the age of 17 years on or before the beginning date of the examination;
2. Have completed formal education equivalent to a United States high school education;
3. Possess the ability to identify and respond to emergency situations that could occur in the practice of electrology;
4. Have graduated from a school of electrolysis in or outside of Nebraska that has a program of electrology studies consisting of:
 - a. At least 600 hours and 600 credits;
 - (1) If a lapse in training of 2 years or longer occurs, all hours and credits earned will be forfeited; and
5. Have passed the licensure examination with an average score of 75%.

36-004.01B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Verification of successful completion of a basic first aid course;
4. A photocopy of the diploma or certificate from a school of electrolysis verifying completion;

5. A certification by the school of electrolysis, verifying the student's electrology training and completion of at least 600 hours and 600 credits by the student;
6. A complete application on Attachment C attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
7. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
8. One current photograph for identification purposes and entry to the examination;
9. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
10. The required licensure fee.

36-004.01C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-004.01D Examination Notification: The Department will notify the applicant of examination eligibility and be forwarded a schedule of the date, time, and place of the examination, and any additional information necessary for taking the examination.

36-004.01E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-004.01F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-004.01G Department Review: The Department will act within 150 days on all completed applications for licensure.

36-004.02 Licensure by Waiver of Examination

36-004.02A Requirements: An applicant who holds a current license in another jurisdiction and wishes to apply for licensure as an electrologist by waiver of examination must:

1. Have attained the age of 17 years on or before the beginning date of the examination administered in the other jurisdiction;
2. Have completed formal education equivalent to a United States high school education;
3. Possess the ability to identify and respond to emergency situations that could occur in the practice of electrology;
4. Hold a current license as an electrologist in another jurisdiction issued on the basis of a written examination; and
5. Complete a course of electrology studies consisting of at least 600 hours.
 - a. If the applicant does not meet these hour requirements, hour-equivalents may be granted for recent work experience in the following manner:
 - (1) 50 hours for each month of full-time practice as an electrologist within the 5 years immediately preceding application.

36-004.02B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Verification of successful completion of a basic first aid course;

4. A certification by the school of electrolysis, verifying the student's electrology training and completion of at least 600 hours by the student;
5. A complete application on Attachment D attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license;
8. The required licensure fee; and
9. Information from the licensing or certifying agency submitted to the Department that includes:
 - a. A certification on Attachment D1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information, completed, dated, and signed by the agency issuing the original license, that the applicant is duly licensed or certified, that his or her license or certification has never been disciplined or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement. The certification must include the following:
 - (1) The nature of disciplinary actions, if any, taken against the applicant's license;
 - (2) Verification that the applicant's license was based on a written examination, the date of the written examination and the scores received on the examination;

- (3) The date of the applicant's license and expiration of such license; and
- (4) The name of the school of electrolysis attended by the applicant and date of graduation if applicable;

36-004.02C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-004.02D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-004.02E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-004.02F Department Review: The Department will act within 150 days upon all completed applications for licensure.

36-005 ESTHETICIAN LICENSURE: Licensure is required before any person may engage in the full, unsupervised practice of esthetics and no person may assume the title of esthetician without first being licensed by the Department pursuant to the Nebraska Cosmetology Act. The criteria for issuance of licensure and the documentation required by the Department and the Board are set forth below.

36-005.01 Licensure by Examination:

36-005.01A Requirements: An applicant for licensure as an esthetician by examination must:

1. Have attained the age of 17 years on or before the beginning date of the examination;
2. Have completed formal education equivalent to a United States high school education;
3. Possess the ability to identify and respond to emergency situations that could occur in the practice of esthetics;
4. Have graduated from a school of cosmetology or apprentice salon in Nebraska or a school of esthetics in or outside of Nebraska. The program of esthetics study consists of:
 - a. At least 600 hours and 600 credits;

- (1) If a lapse in training of 2 years or longer occurs, all hours and credits earned will be forfeited. Hours and credits must be earned exclusively in either a school of cosmetology or apprentice salon. No hours or credits earned in one type of establishment may be transferred to another establishment of another type; and
5. Have passed the licensure examination with an average score of 75%.

36-005.01B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Verification of successful completion of a basic first aid course. A course approved by the Department may be offered by the school of cosmetology or apprentice salon or a school of esthetics free of charge, or may be gained at other sites;
4. A photocopy of the diploma or certificate from a school of cosmetology or apprentice salon or school of esthetics verifying the completion of a program of esthetic studies;
5. A certification by the school of cosmetology or apprentice salon or school of esthetics, verifying the student's esthetician training and completion of 600 hours and 600 credits by the student;
6. A complete application on Attachment E attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
7. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on

probation;

8. One current photograph for identification purposes and entry to the examination;
9. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
10. The required licensure fee.

36-005.01C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-005.01D Examination Notification: The Department will notify the applicant of examination eligibility and forward a schedule of the date, time, and place of the examination, and any additional information necessary for taking the examination.

36-005.01E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-005.01F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-005.01G Department Review: The Department will act 150 days on all completed applications for licensure.

36-005.02 Licensure by Waiver of Examination

36-005.02A Requirements: An applicant for licensure as an esthetician by waiver of examination must:

1. Have attained the age of 17 years on or before the beginning date of the examination;
2. Have completed formal education equivalent to a United States high school education;
3. Possess the ability to identify and respond to emergency situations that could occur in the practice of esthetics;

4. Hold a current license as a cosmetologist, esthetician, or an equivalent title in another jurisdiction issued on the basis of a written and practical examination;
5. Have completed a course of esthetics study consisting of at least 600 hours.
 - a. If the applicant does not meet these hour requirements, these hours may be earned through any combination of hours earned as a student or apprentice in a cosmetology establishment or school of esthetics licensed or approved by the jurisdiction in which it was located, and hour-equivalents granted for recent work experience. Hour equivalents may be granted in the following manner:
 - (1) 50 hours for each month of full-time practice as an instructor, or cosmetologist, or esthetician within the 5 years immediately preceding application

36-005.02B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Verification of successful completion of a basic first aid course;
4. A certification by the school of cosmetology or esthetic school, verifying the student's esthetic training and completion of at least 600 hours by the student;
5. A complete application on Attachment F attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on

probation;

7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license;
8. The required licensure fee; and
9. Information from the licensing or certifying agency submitted to the Department that includes:
 - a. A certification on Attachment F1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information, completed, dated, and signed by the agency issuing the original license, that the applicant is duly licensed or certified, that his or her license or certification has never been disciplined or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement. The certification must include the following:
 - (1) The nature of disciplinary actions, if any, taken against the applicant's license;
 - (2) Verification that the applicant's license was based on a written and practical examination, the written and practical examination, and the scores received on each examination;
 - (3) The date of the applicant's license and expiration of such license; and
 - (4) The name of the school of cosmetology or esthetics school attended by the applicant and date of graduation if applicable;

36-005.02C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-005.02D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-005.02E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-005.02F Department Review: The Department will act within 150 days upon all completed applications for license.

34-006 NAIL TECHNOLOGY LICENSURE: Licensure is required before any person may engage in the full, unsupervised practice of nail technology and no person may assume the title of nail technician without first being licensed by the Department pursuant to the Nebraska Cosmetology Act. The criteria for issuance of licensure and the documentation required by the Department and the Board are set forth below.

36-006.01 Licensure by Examination

36-006.01A Requirements: An applicant for licensure as a nail technician by examination must:

1. Have attained the age of 17 years on or before the beginning date of the examination;
2. Have completed formal education equivalent to a United States high school education;
3. Possess the ability to identify and respond to emergency situations that could occur in the practice of nail technology;
4. Graduate from a school of cosmetology or nail technology in Nebraska. The program of nail technology study consists of:
 - a. At least 300 hours which includes at least 16 hours of instruction on operating the nail drill; and
5. Have passed the licensure examination with an average score of 75%.

36-006.01B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Verification of successful completion of a basic first aid course. A

course approved by the Department may be offered by the school of cosmetology or school of nail technology free of charge, or may be gained at other sites;

4. A photocopy of the diploma or certificate from a school of cosmetology or school of nail technology verifying the completion;
5. A certification by the school of cosmetology or school of nail technology, verifying:
 - a. The student's nail technology training
 - b. Completion of at least 300 hours of nail technology training; and
 - c. At least 16 hours of training operating the nail drill;
6. A complete application on Attachment G attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
7. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
8. One current photograph for identification purposes and entry to the examination;
9. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
10. The required licensure fee.

36-006.01C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-006.01D Examination Notification: The Department will notify the applicant of examination eligibility and be forwarded a schedule of the date, time, and place of the examination, and any additional information necessary for taking the examination.

36-006.01E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-006.01F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-006.01G Department Review: The Department will act within 150 days upon all completed applications for license.

36-006.02 Licensure Based on a License in Another State or Jurisdiction (Reciprocity)

36-006.02A Requirements: An applicant for licensure as a nail technician by reciprocity must:

1. Have attained the age of 17 years on or before the beginning date of the examination;
2. Have completed formal education equivalent to a United States high school education;
3. Hold a current license as nail technician or an equivalent title in another jurisdiction; and
4. Have completed a program of nail technician studies consisting of at least 300 hours, including 16 hours of instruction on operating a nail drill and passage of a written examination. If a written examination was not required for licensure in another jurisdiction, the applicant must take the Nebraska written examination; or
5. Have practiced as a nail technician for at least 12 months following issuance of a license in another jurisdiction.

36-006.02B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation; and

3. A certification by the school of cosmetology or school of nail technology, verifying the student's nail technology training and completion of at least 300 hours, including 16 hours of instruction on operating a nail drill by the student; or
4. Evidence of practice as a nail technician for at least 12 months following issuance of a license in another jurisdiction; and
5. A complete application on Attachment H attached to these regulations and incorporated by this reference or an alternate form which contains the same information and the applicant's social security number. Only applications which are complete will be considered;
6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license;
8. The required licensure fee; and
9. Information from the licensing or certifying agency submitted to the Department that includes:
 - a. A certification on Attachment H1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information, completed, dated, and signed by the agency issuing the original license, that the applicant is duly licensed or certified, that his or her license or certification has never been disciplined or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement. The certification must include the following:
 - (1) The nature of disciplinary actions, if any, taken against the applicant's license;

- (2) Verification that the applicant's license was based on a written examination, the date of the written examination, and the scores received on such examination (if applicable);
- (3) The date of the applicant's license and expiration of such license; and
- (4) The name of the school of cosmetology or school of nail technology attended by the applicant and date of graduation if applicable;

36-006.02C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-006.02D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-006.02E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-006.02F Department Review: The Department will act within 150 days upon all completed applications for license.

36-007 INSTRUCTOR LICENSURE: Any person who engages in, follows, advertises, or holds oneself out as engaging in or following any of the practices of teaching cosmetology or acts as an instructor must be licensed. No person may assume the title of instructor without first being licensed by the Department pursuant to the Nebraska Cosmetology Act. The criteria for issuance of licensure and the documentation required by the Department and the Board are set forth below.

36-007.01 Cosmetology Instructor by Examination

36-007.01A Requirements: An applicant for licensure as a cosmetology instructor by examination must:

1. Hold a current cosmetology license in Nebraska;
2. Have attained the age of 17 years on or before the beginning date of the examination;
3. Have completed formal education equivalent to a United States

- high school education;
- 4. Possess the ability to identify and respond to emergency situations that could occur in the practice of cosmetology;
- 5. Complete an instructor's program of studies in a school of cosmetology in Nebraska consisting of:
 - a, 925 hours in a period of not less than 6 months;
 - (1) If a lapse in training of 2 years or longer occurs, all hours earned will be forfeited; and
- 6. Have passed the licensure examination with an average score of 75%.

36-007.01B Application Process: The following must be submitted to the Department:

- 1. Documentation of current licensure in Nebraska as a cosmetologist;
- 2. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
- 3. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
- 4. Verification of successful completion of a basic first aid course. A course approved by the Department may be offered by the school of cosmetology free of charge, or may be gained at other sites;
- 5. A photocopy of the diploma or certificate from a school of cosmetology verifying the completion of a program of studies for licensure as an instructor ;
- 6. Verification by the school of cosmetology verifying the student's instructor training and completion of 925 hours by the student;
- 7. A complete application on Attachment A attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered.
- 8. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment,

- if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
9. One current photograph for identification purposes and entry to the examination;
 10. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
 11. The required licensure fee.

36-007.01C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-007.01D Examination Notification: The Department will notify the applicant of examination eligibility and be forwarded a schedule of the date, time, and place of the examination, and any additional information necessary for taking the examination.

36-007.01E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-007.01F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-007.01G Department Review: The Department will act within 150 days on all completed applications for licensure.

36-007.02 Cosmetology Instructor by Waiver of Examination

36-007.02A Requirements: An applicant for licensure as a cosmetology instructor by waiver of examination must:

1. Hold a current license as a cosmetologist in Nebraska;
2. Hold a current license as a Cosmetology Instructor in another jurisdiction issued on the basis of a written and practical

- examination;
3. Have attained the age of 17 years on or before the beginning date of the examination;
 4. Have completed formal education equivalent to a United States high school education;
 5. Possess the ability to identify and respond to emergency situations that could occur in the practice of cosmetology;
 6. Complete a course of instructor's studies consisting of at least 925 hours, in a period of not less than 6 months; and
 7. If the applicant does not meet these hour requirements, these hours may be earned through any combination of hours earned as a student instructor in a cosmetology school licensed or approved by the jurisdiction in which it was located, and hour-equivalents granted for recent work experience. Hour equivalents may be granted in the following manner:
 - a. Each month of full-time practice as an instructor within the 5 years immediately preceding application will be valued as 100 hour-equivalents towards a cosmetology instructor license.

36-007.02B Application Process: The following must be submitted to the Department:

1. Documentation of current licensure as a cosmetologist in Nebraska;
2. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
3. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
4. Verification of successful completion of a basic first aid course;
5. A photocopy of the diploma or certificate from a school of cosmetology verifying the completion of a program of studies;
6. A complete application on Attachment B attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
7. If the applicant has been convicted of a felony or misdemeanor:

- a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
8. Attestation by the applicant:
- a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license;
9. The licensure fee; and
10. Information from the licensing or certifying agency submitted to the Department that includes:
- a. A certification on Attachment B1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information, that the applicant is duly licensed or certified, that his or her license or certification has never been disciplined or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
 - b. The nature of disciplinary actions, if any, taken against the applicant's license;
 - c. Verification that the applicant's license was based on a written and practical examination;
 - d. The date of the applicant's license and expiration date of such license; and
 - e. The score(s) attained on the examination.

36-007.02C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-007.02D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance

Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-007.02E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-007.02F Department Review: The Department will act within 150 days upon all completed applications for licensure.

36-007.03 Electrology Instructor by Examination

36-007.03A Requirements: An applicant for licensure as an electrology instructor by examination must:

1. Hold a current electrology license in Nebraska;
2. Have practiced electrology actively for at least 5 years immediately before application;
3. Have attained the age of 17 years on or before the beginning date of the examination;
4. Have completed formal education equivalent to a United States high school education;
5. Possess the ability to identify and respond to emergency situations that could occur in the practice of electrology; and
6. Have passed the licensure examination with an average score of 75%.

36-007.03B Application Process: The following must be submitted to the Department:

1. Documentation of current licensure in Nebraska as an electrologist;
2. Evidence of active practice as an electrologist for 5 years immediately before application;
3. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
4. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
5. Verification of successful completion of a basic first aid course. A

course approved by the Department may be offered by the school of electrolysis or may be gained at other sites;

6. A complete application on Attachment C attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
7. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
8. One current photograph for identification purposes and entry to the examination;
9. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
10. The required licensure fee.

36-007.03C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-007.03D Examination Notification: The Department will notify the applicant of examination eligibility and be forwarded a schedule of the date, time, and place of the examination, and any additional information necessary for taking the examination.

36-007.03E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-007.03F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the

statutes and regulations governing the credential.

36-007.03G Department Review: The Department will act within 150 days upon all completed applications for license.

36-007.04 Electrology Instructor by Waiver of Examination

36-007.04A Requirements: An applicant for licensure as an electrology instructor by waiver of examination must:

1. Hold a current license as an electrologist in Nebraska;
2. Hold a current license as an Electrologist Instructor in another jurisdiction issued on the basis of a written examination;
3. Have attained the age of 17 years on or before the beginning date of the examination;
4. Have completed formal education equivalent to a United States high school education;
5. Possess the ability to identify and respond to emergency situations that could occur in the practice of electrology; and
6. Have practiced electrology actively for at least 5 years immediately before application.

36-007.04B Application Process: The following must be submitted to the Department:

1. Documentation of current licensure as an electrologist in Nebraska;
2. Verification of 5 years of actively practicing electrology immediately before application;
3. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
4. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
5. Verification of successful completion of a basic first aid course;
6. A complete application on Attachment D attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
7. If the applicant has been convicted of a felony or misdemeanor:

- a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
8. Attestation by the applicant:
- a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license;
9. The licensure fee; and
10. Information from the licensing or certifying agency submitted to the Department that includes:
- a. A certification on Attachment D1 attached to these regulations and incorporated by this reference or alternate form which contains the same information, that the applicant is duly licensed or certified, that his or her license or certification has never been disciplined or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
 - b. The nature of disciplinary actions, if any, taken against the applicant's license;
 - c. Verification that the applicant's license was based on a written examination:
 - d. The date of the applicant's license and expiration date of such license; and
 - e. The score(s) attained on the examination.

36-007.04C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-007.04D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent

renewal date.

36-007.04E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-007.04F Department Review: The Department will act within 150 days upon all completed applications for license.

36-007.05 Esthetics Instructor by Examination

37-006.05A Requirements: An applicant for licensure as an esthetics instructor by examination must:

1. Hold a current esthetician license in Nebraska;
2. Have attained the age of 17 years on or before the beginning date of the examination;
3. Have completed formal education equivalent to a United States high school education;
4. Possess the ability to identify and respond to emergency situations that could occur in the practice of esthetics;
5. Complete an instructor's program of studies in a school of cosmetology in Nebraska or a school esthetics in or outside of Nebraska consisting of 300 hours of esthetics instructor training;
 - a. If a lapse in training of 2 years or longer occurs, all hours earned will be forfeited. Hours must be earned exclusively in either a school of cosmetology or school of esthetics. No hours earned in one type of establishment may be transferred to another type of establishment; and
6. Have passed the licensure examination with an average score of 75%.

36-007.05B Application Process: The following must be submitted to the Department:

1. Documentation of current licensure in Nebraska as an esthetician;
2. A photocopy of the diploma or certificate from a school of cosmetology or esthetics verifying the completion of a program of studies for licensure;
3. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;

4. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
5. Verification of successful completion of a basic first aid course. A course approved by the Department may be offered by the school of cosmetology or school of esthetics free of charge, or may be gained at other sites;
6. Verification by the school of cosmetology or school of esthetics verifying the student's instructor training and completion of 300 hours by the student;
7. A complete application on Attachment E attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
8. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
9. One current photograph for identification purposes and entry to the examination;
10. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
11. The required licensure fee.

36-007.05C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-007.05D Examination Notification: The Department will notify the applicant of examination eligibility and be forwarded a schedule of the date, time, and place of

the examination, and any additional information necessary for taking the examination.

36-007.05E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-007.05F Administrative Penalty/Other Action. An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-007.05G Department Review: The Department will act within 150 days upon all completed applications for license.

36-007.06 Esthetics Instructor by Waiver of Examination

36-007.06A Requirements: An applicant for licensure as an esthetics instructor by waiver of examination must:

1. Hold a current license as an esthetician in Nebraska;
2. Hold a current license as an Esthetic Instructor in another jurisdiction issued on the basis of a written and practical examination;
3. Have attained the age of 17 years on or before the beginning date of the examination;
4. Have completed formal education equivalent to a United States high school education;
5. Possess the ability to identify and respond to emergency situations that could occur in the practice of esthetics; and
6. Complete a course of esthetics instructor's studies consisting of at least 300 hours.
 - a. If the applicant does not meet these hour requirements, these hours may be earned through any combination of hours earned as a student instructor in a cosmetology school or esthetic school licensed or approved by the jurisdiction in which it was located, and hour-equivalents granted for recent work experience. Hour equivalents may be granted in the following manner:
 - (1) Each month of full-time practice as an esthetics instructor within the 5 years immediately preceding application will be valued as 100 hour-equivalents towards an esthetic instructor license.

36-007.06B Application Process: The following must be submitted to the Department:

1. Documentation of current licensure as an esthetician in Nebraska;
2. A photocopy of the diploma or certificate from a school of cosmetology or esthetics verifying the completion of a program of studies;
3. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
4. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
5. Verification of successful completion of a basic first aid course;
6. A complete application on Attachment F attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
7. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
8. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license;
9. The licensure fee; and
10. Information from the licensing or certifying agency submitted to the Department that includes:
 - a. A certification on Attachment F1 attached to these regulations and incorporated by this reference or an

- alternate form which contains the same information, that the applicant is duly licensed or certified, that his or her license or certification has never been disciplined or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
- b. The nature of disciplinary actions, if any, taken against the applicant's license;
 - c. Verification that the applicant's license was based on a written and practical examination:
 - d. The date of the applicant's license and expiration date of such license; and
 - e. The score(s) attained on the examination.

36-007.06C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-007.06D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-007.06E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-007.06F Department Review: The Department will act within 150 days upon all completed applications for license.

36-007.07 Nail Technology Instructor by Examination

36-007.07A Requirements: An applicant for licensure as a nail technology instructor by examination must:

1. Hold a current nail technology license in Nebraska;
2. Have attained the age of 17 years on or before the beginning date of the examination;
3. Have completed formal education equivalent to a United States high school education;
4. Possess the ability to identify and respond to emergency situations that could occur in the practice of nail technology;

5. Complete a nail technology instructor's program of studies in a school of cosmetology or school of nail technology in Nebraska consisting of 300 hours; and
6. Have passed the licensure examination with an average score of 75%.

36-007.07B Application Process: The following must be submitted to the Department:

1. Documentation of current licensure in Nebraska as a nail technician;
2. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
3. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
4. Verification of successful completion of a basic first aid course. A course approved by the Department may be offered by the school of cosmetology or school of nail technology free of charge, or may be gained at other sites;
5. A certification by the school of cosmetology or school of nail technology, verifying the student's nail technology instructor training and completion of 300 hours by the student;
6. A photocopy of the diploma or certificate from a school of cosmetology or school of nail technology verifying the completion of a program of nail technology instructor studies for licensure;
7. A complete application on Attachment G attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
8. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;

9. One current photograph for identification purposes and entry to the examination;
10. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
11. The required licensure fee;

36-007.07C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-007.07D Examination Notification: The Department will notify the applicant of examination eligibility and be forwarded a schedule of the date, time, and place of the examination, and any additional information necessary for taking the examination.

36-007.07E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-007.07F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-007.07G Department Review: The Department will act within 150 days upon all completed applications for license.

36-007.08 Nail Technology Instructor Based on a License in another State or Jurisdiction (Reciprocity)

36-007.08A Requirements: An applicant for licensure as a nail technology instructor by Reciprocity must:

1. Hold a current license as a nail technician in Nebraska;
2. Hold a current license as a nail technology instructor in another jurisdiction;
3. Have attained the age of 17 years on or before the beginning date of the examination;

4. Have completed formal education equivalent to a United States high school education; and
5. Have completed a program of nail technology instructor studies consisting of at least 300 hours. If a written examination was not required for licensure in another jurisdiction, the applicant must take the Nebraska written examination; or
6. Have practiced as a nail technology instructor for at least 12 months following issuance of a license in another jurisdiction.

36-007.08B Application Process: The following must be submitted to the Department:

1. Documentation of current licensure as a nail technician in Nebraska;
2. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 17 years on or before the beginning date of the examination;
3. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
4. A photocopy of the diploma or certificate from a school of cosmetology or school of nail technology verifying the completion of a program of studies;
5. A complete application on Attachment H attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to

the application for a license;

8. The licensure fee; and
9. A certification by the school of cosmetology or school of nail technology, verifying the student's nail technology instructor training and completion of at least 300 hours by the student; or evidence of practice as an instructor for at least 12 months following licensure; and
10. A certification on Attachment H1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information, completed, dated, and signed by the agency issuing the original license, that the applicant is duly licensed or certified, that his or her license or certification has never been disciplined or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement. The certification must include the following:
 - (1) The nature of disciplinary actions, if any, taken against the applicant's license;
 - (2) Verification that the applicant's license was based on a written examination; date of the written examination and the scores received on each examination (if applicable);
 - (3) The date of the applicant's license and expiration of such license; and
 - (4) The name of the school of cosmetology or school of nail technology attended by the applicant and date of graduation if applicable;

36-007.08C Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-007.08D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-007.08E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-007.08F Department Review: The Department will act within 150 days upon

all completed applications for license.

36-008 APPLICANTS RECEIVING TRAINING IN A FOREIGN COUNTRY: An applicant for licensure to practice as a cosmetologist, electrologist, esthetician or instructor based on receiving training in a foreign country is required to take the Nebraska licensure examination.

36-008.01 Requirements: An applicant must:

1. Have attained the age of 17 years on or before the beginning date of the examination;
2. Have completed formal education equivalent to a United States high school education;
3. Have completed a basic first aid course which will provide the ability to identify and respond to emergency situations that could occur in the practice;
4. Hold a current license or equivalent official recognition of the right to practice in a foreign country or have practiced at least 5 years within the 8 years immediately preceding application as a cosmetologist, electrologist, esthetician or instructor; and
5. Have passed the Nebraska licensure examination with an average score of 75%.

36-008.02 Application Process: The following must be submitted to the Department:

1. Evidence of attaining the age of 17 years on or before the beginning date of the examination, as evidenced by a photocopy of a birth certificate, baptismal certificate, or other equivalent document;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Evidence of successful completion of a basic first aid course;
4. A photocopy of current licensure or documentation that the applicant has been in the active practice as a cosmetologist, electrologist, esthetician, or instructor for at least 5 years within the 8 years immediately preceding application;
5. A complete application on Attachment I attached to these regulations and incorporated by this reference and the applicant's social security number. Only applications which are complete will be considered;
6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;

- c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
7. One current photograph for identification purposes and entry to the examination;
8. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
9. The licensure fee.

36-008.03 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-008.04 Examination Notification: The Department will notify the applicant of examination eligibility and be forwarded a schedule of the date, time, and place of the examination, and any additional information necessary for taking the examination.

36-008.05 Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

36-008.06 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-008.07 Department Review: The Department will act within 150 days upon all completed applications.

36-009 REGISTRATION: Registration is required before any person may act as a guest artist, cosmetician, cosmetology student, esthetician student, apprentice, student instructor, or temporary practitioner, and no person must assume any title indicative of any of such areas of activity without first being registered. The criteria for issuance of registration and the documentation required by the Department and the Board are set forth below.

36-009.01 Cosmetician

36-009.01A Requirements: An applicant for registration as a cosmetician must:

1. Have received instruction in the chemical properties of, and potential reactions to, the cosmetics s/he intends to apply from his/her employers or from the manufacturers or distributors of the cosmetic products;
2. Have received instruction of actions to take in the event of chemical reaction; and
3. Be currently employed as a cosmetician or intending to become employed.

36-009.01B Application Process: The following must be submitted to the Department:

1. Verification of employment as a cosmetician or statement of intent to become employed as a cosmetician;
2. A complete application on Attachment J attached to these regulations and incorporated by this reference. Only applications which are complete will be considered;
3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a registration; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a registration; and
4. The registration fee.

36-009.01C Department Review: The Department will act within 150 days upon all completed applications.

36-009.02 Guest Artist

36-009.02A Requirements: An applicant for registration as a guest artist must:

1. Hold current licensure as a cosmetologist in another jurisdiction or have the education or experience relating to the applicable category of continuing competency; and
2. Be under the sponsorship of a licensed Nebraska cosmetology establishment or licensed cosmetologist.

36-009.02B Application Process: The following must be submitted to the Department:

1. Verification of sponsorship of a licensed cosmetology establishment or licensed cosmetologist;

2. A complete application on Attachment K attached to these regulations and incorporated by this reference. Only applications which are complete will be considered;
3. The registration fee; and
4. For applicants licensed in another jurisdiction a certification that the applicant is currently licensed on Attachment K1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information. This may be submitted to the Department by the applicant or the certifying or licensing agency; or
5. For applicants not licensed in another jurisdiction documentation of education and experience relating to the applicable category of continuing competency. This may be submitted to the Department by the applicant or the certifying or licensing agency.

36-009.02D Department Review: The Department will act within 150 days upon all completed applications.

36-009.03 Special Study Student or Special Study Apprentice

36-009.03A Requirements: An applicant for registration as a cosmetology or esthetician special study student or special study apprentice must:

1. Have attained the age of 17 years on or before the date of enrollment in a school of cosmetology/esthetics or an apprentice salon;
2. Have completed the 10th grade;
3. Have been accepted for enrollment at a school of cosmetology/esthetics or an apprentice salon;
4. Be actively continuing his/her formal high school education on a full-time basis as determined by the Department; and
5. Have not undertaken any training in cosmetology or esthetics without being registered as a student or apprentice.

36-009.03B Application Process: The school of cosmetology, school of esthetics or an apprentice salon must submit to the Department:

1. Evidence that the student has attained the age of 17 years on or before the beginning date of the enrollment, as evidenced by a photocopy of a birth certificate, baptismal certificate, or other equivalent document;
2. A photocopy of the student's high school record indicating completion of 10th grade or equivalent document and evidence of

continuing high school on a full time basis; and

3. A complete application for registration on Attachment L attached to these regulations and incorporated by this reference . The completed application must be submitted within 5 days following the first day of courses. Only applications which are complete will be considered.

36-009.03C Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate their own documents.

36-009.03D A school of cosmetology/esthetics or an apprentice salon must not accept an individual for enrollment who does not provide evidence of meeting the age and education requirements.

36-009.03E A school of cosmetology/esthetics or an apprentice salon must not continue training an individual for whom the establishment has not submitted a complete registration application within such 5 day period.

36-009.03F Department Time Frame: The Department will act within 30 days on all completed applications for registration and forward an acknowledgement of the student's registration to the student and school of cosmetology/esthetics or an apprentice salon.

36-009.03G A school of cosmetology/esthetics or an apprentice salon must not continue to train or enroll a person who has not received his or her acknowledgement of registration within 30 days of submission.

36-009.03H Special study students or special study apprentices are limited to attending a school of cosmetology, a school of esthetics or an apprentice salon for 8 hours per week during the high school year but may attend a school of cosmetology/esthetics or an apprentice salon for more than 8 hours per week during the time designated by the high school as summer break.

36-009.03I If a lapse in training of 2 years or longer occurs, all hours and credits earned will be forfeited. Hours and credits must be earned exclusively in either a school of cosmetology, a school of esthetics or an apprentice salon. No hours or credits earned in one type of establishment may be transferred to another type of establishment.

36-009.04 Standard Student or Standard Apprentice

36-009.04A Requirements: An applicant for registration as a cosmetology or esthetician standard student or standard apprentice must:

1. Have attained the age of 17 years on or before enrollment in a school of cosmetology/esthetics or an apprentice salon;
2. Have completed formal education equivalent to a United States

high school education;

3. Have been accepted for enrollment at a school of cosmetology/esthetics or an apprentice salon; and
4. Have not undertaken any training in cosmetology or esthetics without being registered as a student or apprentice.

36-009.04B Application Process: The school of cosmetology, a school of esthetics or an apprentice salon must submit to the Department:

1. Evidence that the student has attained the age of 17 years on or before the beginning date of the enrollment, as evidenced by a photocopy of a birth certificate, baptismal certificate, or other equivalent document;
2. A photocopy of the student's high school diploma, general educational development certificate, or equivalent document as determined by the Department, showing evidence of graduation; and
3. A complete application for registration on Attachment L attached to these regulations and incorporated by this reference. The completed application must be submitted within 5 days following the first day of courses. Only applications which are complete will be considered.

36-009.04C Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-009.04D A school of cosmetology, school of esthetics or an apprentice salon must not accept an individual for enrollment who does not provide evidence of meeting the age and education requirements.

36-009.04E A school of cosmetology, a school of esthetics or an apprentice salon must not continue training an individual for whom the establishment has not submitted a complete registration application within such 5 day period.

36-009.04F Department Time Frame: The Department will act within 30 days on all completed applications for registration and forward an acknowledgement of the student's registration to the student and school of cosmetology/esthetics or an apprentice salon;

36-009.04G A school of cosmetology, a school of esthetics or an apprentice salon must not continue to train or enroll a person who has not received his or her acknowledgement of registration within 30 days of submission.

36-009.04H If a lapse in training of 2 years or longer occurs, all hours and credits earned will be forfeited. Hours and credits must be earned exclusively in either a

school of cosmetology, a school of esthetics or an apprentice salon. No hours or credits earned in one type of establishment may be transferred to another type of establishment.

36-009.05 Intrastate Transfer Student

36-009.05A Requirements: The following rules pertain to intrastate transfers:

1. An applicant for registration as an intrastate transfer cosmetology or esthetician student may transfer from one school of cosmetology in Nebraska to another school in Nebraska at any time without penalty if the applicant:
 - a. Secures a letter from the school of cosmetology, a school of esthetics or an apprentice salon from which s/he is transferring stating:
 - (1) The number of hours and credits earned by the student of such school, including any hours and credits the student transferred into that school; and
 - (2) The dates of attendance of the student at that school.

36-009.05B School Responsibilities: The school of cosmetology or a school of esthetics, to which the student is transferring must submit to the Department:

1. A copy of the letter specified in 172 NAC 36-009.05A; and
2. A completed application on Attachment L attached to these regulations and incorporated by this reference. The completed application must be submitted within 5 days following the first day of courses. Only applications which are complete will be considered. Supporting documents already on file with the Department submitted with the original application need not be resubmitted.

36-009.05C A student may not begin training at the new school until the requirements specified in 172 NAC 36-009.05A and 36-009.05B have been met.

36-009.05D A school of cosmetology or a school of esthetics must not continue training an individual for whom the school has not submitted a complete registration application within such 5 day period.

36-009.05E Department Time Frame: The Department will act within 30 days on all completed applications for registration and forward an acknowledgement of the student's registration to the student and school of cosmetology/esthetics;

36-009.05F A school of cosmetology or a school of esthetics must not continue to train or enroll a person who has not received his/her acknowledgement of registration within 30 days of submission.

36-009.05G If a lapse in training of 2 years or longer occurs, all hours and credits earned will be forfeited. Hours and credits must be earned exclusively in either a school of cosmetology, a school of esthetics or an apprentice salon. No hours or credits earned in one type of establishment may be transferred to another type of establishment.

36-009.06 Interstate Transfer Student

36-009.06A Requirements: An applicant for registration as an interstate transfer cosmetology or esthetician student may transfer into a school of cosmetology or school of esthetics in Nebraska from a school in another state if the school in the other state meets all requirements as specified in Neb. Rev. Stat. §71-3,141. The applicant must:

1. Have attained the age of 17 years on or before enrollment in a school of cosmetology;
2. Have completed formal education equivalent to a United States high school education; and
3. Have been accepted for enrollment at a school of cosmetology or a school of esthetics in Nebraska.

36-009.06B Application Requirements: The student must submit to the Department:

1. Documentation that the school from which s/he is transferring was fully accredited by the appropriate body in that state at the time the student attended; and
2. Documentation that a portion of the student's hours had been earned within the 2 years immediately prior to the transfer.

36-009.06C School Responsibilities: The of cosmetology or a school of esthetics must submit to the Department:

1. Evidence that the student attained the age of 17 years of age on or before the beginning date of the enrollment, as evidenced by a photocopy of a birth certificate, or equivalent document;
2. A photocopy of the student's high school diploma, general education development certificate, or equivalent document showing evidence of graduation;
3. A complete application for registration on Attachment L attached to these regulations and incorporated by this reference. The completed application must be submitted within 5 days following the first day of courses. Only applications which are complete will be considered.

36-009.06D Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-009.06E A school of cosmetology or a school of esthetics must not continue training an individual for whom the school of cosmetology or a school of esthetics has not submitted a complete registration application within such 5 day period.

36-009.06F Department Time Frame: The Department will act within 30 days on all completed applications for registration and forward an acknowledgement of the student's registration to the student and school of cosmetology or a school of esthetics;

36-009.06G A school of cosmetology or a school of esthetics must not continue to train or enroll a person who has not received his or her acknowledgement of registration within 30 days of submission.

36-009.06H If a lapse in training of 2 years or longer occurs, all hours and credits earned will be forfeited. Hours and credits must be earned exclusively in either a school of cosmetology or a school of esthetics. No hours or credits earned in one type of establishment may be transferred to another establishment of another type.

36-009.07 Cosmetology Student by a Licensed Barber

36-009.07A Requirements. Any applicant for registration as a cosmetology student who is currently licensed as a barber issued by the appropriate authority in Nebraska is entitled to waive 1000 hours upon enrolling in a complete course of cosmetology training in a school of cosmetology. The applicant must:

1. Have attained the age of 17 years on or before enrollment in a school of cosmetology or an apprentice salon;
2. Have completed formal education equivalent to a United States high school education;
3. Hold a current license as a barber in the State of Nebraska;
4. Have been accepted for enrollment at a school of cosmetology or an apprentice salon; and
5. Have not undertaken any training in cosmetology without being registered as a student or apprentice.

36-009.07B School Responsibilities: The school of cosmetology must submit to the Department:

1. Evidence that the student attained the age of 17 years on or before the beginning date of the enrollment, as evidenced by a photocopy of a birth certificate, baptismal certificate, or other equivalent document;

2. A photocopy of the student's high school diploma, general educational development certificate, or equivalent document as determined by the Department, showing evidence of graduation;
3. A photocopy of the current license as a barber in the State of Nebraska; and
4. A complete application for registration on Attachment L attached to these regulations and incorporated by this reference. The completed application must be submitted within 5 days following the first day of courses. Only applications which are complete will be considered.

36-009.07C Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

36-009.07D A school of cosmetology or apprentice salon must not accept an individual for enrollment who does not provide evidence of meeting the age, education and barber licensure requirements;

36-009.07E The school of cosmetology will determine, based upon the knowledge and experience of the student, which 1000 hours of training will be waived and how many credits to waive and which credits are to waived for the student, except that no fewer than 500 credits and no more than 1000 credits may be waived for any student. No hours will be waived for a student enrolling in an esthetician program of study;

36-009.07F A school of cosmetology must not continue training an individual for whom the establishment has not submitted a complete registration application within such 5 day period.

36-009.07G Department Time Frame: The Department will act within 30 days on all completed applications for registration and forward an acknowledgement of the student's registration to the student and school of cosmetology or apprentice salon;

36-009.07H A school of cosmetology must not continue to train or enroll a person who has not received his/her acknowledgement of registration within 30 days of submission.

36-009.07I If a lapse in cosmetology training of 2 years or longer occurs, all hours and credits earned will be forfeited. Hours and credits must be earned exclusively in either a school of cosmetology or apprentice salon. No hours or credits earned in one type of establishment may be transferred to another type of establishment.

36-009.08 Student Instructor

36-009.08A Requirements: An applicant for registration as a student instructor must:

1. Hold a current license as a cosmetologist or esthetician in Nebraska;
2. Have completed formal education equivalent to a United States high school education or its equivalent; and
3. Have been accepted for instructor training by a school of cosmetology or school of esthetics.

36-009.08B School Responsibilities: The school of cosmetology or school of esthetics must submit to the Department:

1. The student's cosmetology or esthetic license number issued by the State of Nebraska;
2. A photocopy of the student's high school diploma, a general education document, or other equivalent documentation; and
3. A complete application on Attachment M attached to these regulations and incorporated by this reference. The completed application must be submitted within 5 days following the first day of courses. Only applications which are complete will be considered.

36-009.08C A school of cosmetology or school of esthetics must not accept an individual for enrollment who does not provide evidence of meeting the age and education requirements.

36-009.08D A school of cosmetology or school of esthetics must not continue training an individual for whom the establishment has not submitted a complete registration application within such 5 day period.

36-009.08E Department Review Time: The Department will act within 30 days on all completed applications for registration and forward an acknowledgement of the student's registration to the student and school of cosmetology or school of esthetics.

36-009.08F A school of cosmetology or school of esthetics must not continue to train or enroll a person who has not received his or her acknowledgement of registration within 30 days of submission.

36-009.09 Re-entrance as a Student

36-009.09A Requirements: An applicant who re-enters a school of cosmetology, a school of esthetics, or an apprentice salon within 2 years of the last date of training must meet all registration requirements as specified in these regulations.

36-009.09B School Responsibilities: The school of cosmetology, a school of esthetics or an apprentice salon must submit to the Department:

1. A complete application for registration on Attachment L attached to these regulations and incorporated by this reference. The completed application must be submitted within 5 days following the first day of courses following re-entrance. Supporting documents already on file with the Department submitted with the original application need not be resubmitted; and
2. Documentation of the hours and credits earned by the student before the date of re-entrance.

36-009.09C If any lapse in training of 2 years or longer occurs, all hours and credits earned will be forfeited.

36-009.09D The student may not begin training until the requirements specified in these regulations have been met.

36-009.09E The school of cosmetology/esthetics or an apprentice salon will not continue training an individual for whom the school has not submitted a complete registration application within such 5 day period.

36-009.09F Department Time Frame: The Department will act within 30 days on all completed applications and forward an acknowledgement of the student's registration to the student and school of cosmetology/esthetics or an apprentice salon.

36-009.09G A school of cosmetology, a school of esthetics, or apprentice salon must not continue to train or enroll a person who has not received his or her acknowledgement of registration within 30 days of submission.

36-010 TEMPORARY PRACTITIONER REGISTRATION: Registration is required before any person may act as a temporary practitioner, and no person may assume any title indicative of any such areas of activity without first being registered. The criteria for issuance of registration and the documentation required by the Department and the Board are set forth below.

36-010.01 Registration as a Temporary Practitioner

36-010.01A Requirements: An applicant for registration as a temporary practitioner must:

1. Have submitted a complete application for licensure by examination as specified in these regulations for licensure as a cosmetologist or esthetician. Such application must be approved by the Department prior to issuance of registration as a temporary practitioner;
2. Have not failed any portion of the licensure examination or have

failed to take any portion of the licensure examination; and

3. Have been accepted for work in a licensed cosmetology establishment under the supervision of a licensed practitioner in the category of licensure.

36-010.01B Application Process: The following must be submitted to the Department:

1. Verification of acceptance for work in a licensed cosmetology establishment under the supervision of a licensed practitioner;
2. A complete application on Attachment N attached to these regulations and incorporated by this reference. Only applications which are complete will be considered;
3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a registration; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a registration; and
4. The registration fee.

36-010.01C Change in Temporary Registration: If any condition of the original application for registration changes, the individual must submit to the Department a new complete application along with the registration fee and original temporary registration. The Department will not issue a new temporary registration until the original temporary registration is surrendered.

36-010.02 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-010.03 Department Review: The Department will act within 30 days upon all completed applications.

36-011 EXPIRATION OF REGISTRATION: Registration is granted for a set period of time and cannot be renewed.

36-011.01A Expiration: The following specifies the expiration requirements:

1. Guest Artist: 2 years following the initial date of issuance.
2. Cosmetician: 2 years following the initial date of issuance.
3. Student, apprentice, or student instructor: Upon successful completion of the licensing examination or termination of enrollment in the school or

apprentice salon. Termination of enrollment means:

- a. Failure to attend for a period of 3 months or more;
- b. The student informs the school of cosmetology or apprentice salon in writing that he or she will no longer be attending; and
- c. Notification to the student by the school of cosmetology or apprentice salon of termination.

4. Temporary Practitioner: Registration as a temporary practitioner expires as follows:

- a. 6 weeks following the written examination date or upon receipt of examination results, which ever occurs first; or
- b. If the temporary practitioner fails to take the first regularly scheduled examination, the registration will expire immediately after the beginning of the examination unless the Board finds that the temporary practitioner was unable to attend the examination due to an emergency or other valid circumstance. In this case the Board may extend the registration until 6 weeks after the date of the next regularly scheduled written examination or upon receipt of the examination results, which ever occurs first. No registration may be extended in this manner more than once.

36-012 PROGRAM OF STUDIES: All Nebraska licensed Schools of Cosmetology, Apprentice Salons, Schools of Esthetics, and Schools of Nail Technology must provide the applicable approved program of studies. To meet one of the conditions of licensure by examination, a student must complete the required curriculum. The following specifies each program of study.

36-012A Cosmetology Licensure: The program of studies consists of at least 2100 hours and 2000 credits. The program must include:

1. A Freshman Class which includes at least 300 hours and 300 credits. Every hour spent in theory or related theory class equals one credit.
 - a. Lecture Theory and Related Theory must include material directly related to the subjects listed in the Freshman Class Curriculum. Related theory experience may occur on mannequins, classroom models, or students. It does not include class laboratory (practice on the public) experience.
2. An Advanced Class which includes at least 1,800 hours and 1,700 credits. Every hour spent in theory or related theory class equals one credit.
3. A final practical and written examination that covers all the subject areas listed in this curriculum as a condition of graduation.
4. The following Freshman and Advanced Class Curriculum:

FRESHMAN COSMETOLOGY THEORY and RELATED THEORY CLASS CURRICULUM (300 hours/300 credits)		
MINIMUM HOURS	SUBJECT	CREDITS
40	Permanent waving / Chemical relaxing	40
18	Facials (Eyebrow Arching, Body Waxing, Lash and Eyebrow Tint, Make-up, and Massage)	18
35	Haircutting	35
60	Hairstyling (Pin Curl Formations, Rollers Fingerwaving, Thermal Curling, Braiding, and Combout)	60
23	Manicuring / Pedicuring / Artificial Nails / Massage	23
20	Shampoos, Conditioners and Scalp Treatments	20
40	Hair Coloring (Darkening, Permanent, Semi/Demi-permanent and Lightening)	40
11	Nebraska Cosmetology Law / Rules and Regulations Sanitary Measures Safety Measures	11
2	Rules and Policies	2
5	Ethics / Grooming	5
15	Dispensary	15
5	Reception Desk	5
26	Unassigned subjects - School may expand subjects listed above or select other cosmetology related subjects	26
Total Hours 300	TOTAL HOURS AND CREDITS IN THE FRESHMAN COSMETOLOGY CURRICULUM	Total Credits 300

ADVANCED COSMETOLOGY THEORY CLASS CURRICULUM (300 hours/200 credits)		
MINIMUM HOURS	SUBJECT	CREDITS
300	Lecture theory must include, but is not limited to the following: Ethics, Hygiene, Poise-Personality, Bacteriology, Sterilization, Applied Electricity, Nebraska Cosmetology Law, State Rules and Regulations, Salon Management and Safety Measures, and as defined in Neb. Rev. Stat, §71-351. Advanced theory class must include the subjects listed in advanced practice on students, clients, mannequins, or class laboratory experience below.	200

ADVANCED COSMETOLOGY RELATED THEORY (1500 hours/1500 credits) Practice on Students, Clients, Mannequins or Class Lab (Floor) Experience		
MINIMUM HOURS	SUBJECT	CREDITS
30	Shampoos, Conditioners and Scalp Treatments	30
300	Haircutting	300
300	Hairstyling (Pin Curl Formations, Rollers, Fingerwaving, Thermal Curling, Combout, Braiding and Wiggery)	300
300	Permanent Waving / Chemical Relaxing	300
300	Haircoloring (Darkening, Permanent, Semi/Demi-permanent and Lightening)	300
50	Facials (Eyebrow Arching, Lash and Eyebrow Tint, Make-up, and Massage)	50
10	Body waxing	10
50	Manicuring / Pedicuring / Artificial Nails / Massage	50
130	Salesmanship / Reception desk / Dispensary	130
30	Unassigned (If a school determines a freshman curriculum longer than 300 hours, a portion of these unassigned hours may be allotted to the freshman course, expand the above subjects, or select other cosmetology related subjects)	30
Total Hours 1500		Total Credits 1500
Total Hours 1800	TOTAL HOURS AND CREDITS IN THE ADVANCED CURRICULUM	Total Credits 1700

36-012.02 Cosmetology Instructor Licensure: The program of studies consists of at least 925 hours of teachers' training in an accredited school of cosmetology for a period of at least 6 months.

1. A student instructor may not be trained in an apprentice salon.
2. A final practical and written examination that covers all the subject areas listed in this curriculum is required for graduation.
3. Students must complete the following Cosmetology Student Instructor Class Curriculum:

COSMETOLOGY STUDENT INSTRUCTOR CLASS CURRICULUM (925 hours)			
MINIMUM HOURS	SUBJECT	SUBJECT CONTENT	
240	1. Student Instructor Orientation	A. B. C. D. E. F.	Introduction to Faculty, Staff, Student body School Policy Overview of the Student Instructor Training Program Statutes and Regulations Sanitation and Sterilization Regulations Teaching Techniques and Educational Tools Student and Instructor Relations/Counseling
240	2. Preparation of a Cosmetology Program	A. B. C.	Overview of Student Cosmetology Curriculum as required by State and School (Units) Detailed Course Outline (Chapters) Detailed Subject Layout (Daily Lessons)
240	3. Theory and Clinical Techniques (Must include Freshman and Advanced Student training Experiences)	A. B. C.	Classroom Observations 1. Assist with a. Presentations/ Lectures b. Teaching basic skills c. Clinical Activities Clinical Observations 1. Supervision of Services 2. Student/Client Relationships Clinical Activities 1. Supervision of Procedures/Demonstrations 2. Practice Teaching/Basic Skills
50	4. The Student Instructor Learns to Evaluate Student Progress	A.	Basic Evaluation Techniques 1. Written, Observation, Oral
155	5. Administrative Techniques	A. B. C.	Office Management 1. Student Folder 2. Entrance Notification 3. Recording Student Hours 4. Graduate Records Office Records 1. State Rules and Regulations Governing Cosmetology Schools 2. Enrollment Procedures 3. Maintaining Student Records Salon Management Operations 1. Client and Student Scheduling 2. Record Keeping Procedures 3. Receptionist Responsibilities 4. Inventory Control, Purchasing, Retailing
Total Hours 925	TOTAL HOURS FOR THE COSMETOLOGY STUDENT INSTRUCTOR CURRICULUM		

36-012.03 Electrology Licensure: The program of studies consists of at least 600 hours and 600 credits.

36-012.04 Esthetician Licensure: The program of studies consists of at least 600 hours and 600 credits. The program must include the following:

1. A Freshman Class which includes at least 76 hours and 76 credits. Every hour spent in theory or related theory class equals one credit.
 - a. Lecture Theory and Related Theory must include material directly related to the subjects listed in the Freshman Class Curriculum. Related theory experience may occur on mannequins, classroom models, or students. It does not include class laboratory (practice on the public) experience.
2. An Advanced Class which includes at least 524 hours and 524 credits. Every hour spent in theory, related theory, or clinical practice class equals one credit.
3. A final practical and written examination that covers all the subject areas listed in this curriculum as a condition of graduation.
4. The following Freshman and Advanced Class Curriculum:

FRESHMAN ESTHETICIAN THEORY CLASS CURRICULUM (15 hours)		
MINIMUM HOURS	SUBJECT	CREDITS
3	Anatomy - Cells	3
5	Physiology/Histology	5
2	Skin Analysis	2
5	Disease and Disorders of the Skin	5
Total Hours 15	TOTAL HOURS AND CREDITS FOR THE FRESHMAN ESTHETICIAN THEORY CURRICULUM	Total Credits 15

FRESHMAN ESTHETICIAN RELATED THEORY CLASS CURRICULUM (61 hours)		
MINIMUM HOURS	SUBJECT	CREDITS
1	Orientation	1
3	Sanitation	3
6	Product Introduction	6
15	Basic Facials with Skin Analysis	15
3	Facial Massages	3
18	Hair Removal / Tweezing / Waxing	18
10	Body Treatments	10
5	Chemical / Manual /Machine Aided Exfoliation	5
Total Hours 61	TOTAL HOURS AND CREDITS FOR THE FRESHMAN ESTHETICIAN RELATED THEORY CURRICULUM	Total Credits 61

ADVANCED (JUNIOR/SENIOR) ESTHETICIAN THEORY CLASS CURRICULUM (70 hours)		
MINIMUM HOURS	SUBJECTS	CREDITS
3	Nebraska State Law and Rules and Regulations	3
12	Anatomy	12
5	Business	5
7	Disease and Disorders of the Skin	7
7	Product Ingredients & Chemistry	7
9	Bacteriology	9
6	Basic Makeup & Color Psychology	6
5	Electricity/Machines	5
3	Hair Removal / Tweezing / Waxing	3
2	Aromatherapy	2
7	Physiology/Histology	7
4	Nutrition	4
Total Hours 70	TOTAL HOURS AND CREDITS FOR THE ADVANCED ESTHETICIAN THEORY CURRICULUM	Total Credits 70

ADVANCED (JUNIOR/SENIOR) ESTHETICIAN RELATED THEORY CLASS CURRICULUM (68 hours)		
MINIMUM HOURS	SUBJECT	CREDITS
1	Sanitation	1
4	Back Treatments	4
12	Skin Diseases and Disorders	12
3	Advanced Waxing	3
4	Chemical and Manual Exfoliation	4
4	Electricity/Machines	4
2	Facial Massage	2
16	Makeup	16
4	Para-Medical Makeup	4
2	Cosmetic Surgery Information	2
4	Custom Blended Cosmetics	4
12	Unassigned Hours	12
Total Hours 68	TOTAL HOURS AND CREDITS FOR THE ADVANCED ESTHETICIAN RELATED THEORY CURRICULUM	Total Credits 68

ADVANCED ESTHETICIAN CLINICAL PRACTICE CURRICULUM (386 hours/386 credits)		
MINIMUM HOURS	SUBJECT	CREDITS
200	Facial Treatments	200
40	Chemical / Manual Aided Exfoliation	40
40	Machine Aided Exfoliation	40
30	Body Treatments with Skin Analysis	30
50	Hair Removal / Tweezing / Waxing	50
26	Makeup Application	26
Total Hours 386	TOTAL HOURS AND CREDITS FOR THE ADVANCED ESTHETICIAN CLINICAL PRACTICE CURRICULUM	Total Credits 386

36-012.05 Esthetics Instructor Licensure: The program of studies consists of at least 300 hours of teachers' training in an accredited school of cosmetology or school of esthetics.

1. A student instructor may not be trained in an apprentice salon.
2. A final practical and written examination that covers all the subject areas listed in this curriculum is required for graduation.
3. Students must complete the following Esthetics Student Instructor Class Curriculum:

ESTHETICS STUDENT INSTRUCTOR CLASS CURRICULUM (300 hours)			
MINIMUM HOURS	SUBJECT	SUBJECT CONTENT	
16	1. Student Instructor Orientation	A. B. C. D. E. F.	Introduction to Faculty, Staff, Student body School Policy Overview of the Student Instructor Training Program Statutes and Regulations Sanitation and Sterilization Regulations Teaching Techniques and Educational Tools Student and Instructor Relations/Counseling
50	2. Preparation of an Esthetics Program	A. B. C.	Overview of Student Esthetics Curriculum as required by State and School (Units) Detailed Course Outline (Chapters) Detailed Subject Layout (Daily Lessons)
150	3. Theory and Clinical Techniques (Must include Freshman and Advanced Student training experiences)	A. B. C.	Classroom Observations 1. Assist with a. Presentations/ Lectures b. Teaching basic skills c. Clinical Activities Clinical Observations 1. Supervision of Services 2. Student/Client Relationships Clinical Activities 1. Supervision of Procedures/Demonstrations 2. Practice Teaching/Basic Skills
40	4. The Student Instructor Learns to Evaluate Student Progress	A.	Basic Evaluation Techniques 1. Written, Observation, Oral
44	5. Administrative Techniques	A. B. C.	Office Management 1. Student folder 2. Entrance notification 3. Recording student hours 4. Graduate records Office Records 1. State Rules and Regulations Governing Esthetics Schools or Cosmetology Schools providing an Esthetic Program 2. Enrollment Procedures 3. Maintaining Student Records Salon Management Operations 1. Client and Student Scheduling 2. Record Keeping Procedures 3. Receptionist Responsibilities 4. Inventory Control, Purchasing, Retailing
Total Hours 300	TOTAL HOURS FOR THE ESTHETICS STUDENT INSTRUCTOR CURRICULUM		

36-012.06 Nail Technology Licensure: The program of studies consists of at least 300 hours. The program must include the following:

1. A Theory Class which includes at least 75 hours.
 - a. Theory must include material directly related to the subjects listed in the Theory Class Curriculum; theory experience may occur on mannequin fingers, classroom models, or students. It does not include practical experience.
2. A final practical and written examination that covers all the subject areas listed in this curriculum as a condition of graduation.
3. The following Theory and Practical Class Curriculum:

NAIL TECHNOLOGY THEORY CLASS CURRICULUM (75 hours)		
MINIMUM HOURS	SUBJECT	SUBJECT CONTENT (including but not limited to the following)
75 Hours Up to ¼ (18 hours and 45 minutes) of the total theory hours may be presented using video tapes or similar devices, or equipment, or self study	Client Consultation	
	Sanitation and Disinfection	<ol style="list-style-type: none"> 1. Methods 2. Sterilization 3. Sanitation (Nebraska laws) 4. Disinfection 5. Supplies/Implements
	Safety in Salon (Chemicals)	<ol style="list-style-type: none"> 1. MSDS Sheets 2. Nail Product Chemistry 3. Chemical Hazards 4. Personal & Client Safety
	Basic First Aid	
	Bacteria and Other Infectious Agents	<ol style="list-style-type: none"> 1. Bacteria 2. Parasites 3. Viruses & Fungus 4. Infections Immunity & Communicable Diseases
	Anatomy and Physiology	<ol style="list-style-type: none"> 1. Nail Composition 2. Skin of the Hands and Feet 3. Structure of the Hands and Feet
	Nail Salon Business and Nebraska Statutes, Rules And Regulations	<ol style="list-style-type: none"> 1. Management 2. Professional Image / Ethics 3. Laws and Regulations
	Nail and Skin Disorders and Diseases	
	Manicures / Pedicures / Hand & Foot Massage	
	Application, Repair, Maintenance and Removal of Artificial Nails	<ol style="list-style-type: none"> 1. Wraps <ol style="list-style-type: none"> a. Fabric 2. Acrylic <ol style="list-style-type: none"> a. Tip overlay b. Natural overlay c. Sculpt 3. Gels
Filing Techniques	<ol style="list-style-type: none"> 1. Nail drill – At least 1 hour 2. Natural nails 	
Total Hours 75	TOTAL HOURS FOR THE NAIL TECHNOLOGY THEORY CURRICULUM	

NAIL TECHNOLOGY PRACTICAL CLASS CURRICULUM (225 hours)		
1. 100 hours of practice on an artificial hand/nail; and 2. 125 hours of practical training must include the minimum hours listed below for each type of service. Such service must be on a live person; not on an artificial hand/nail:		
MINIMUM HOURS	SUBJECT	SUBJECT CONTENT (including but not limited to the following)
55	Artificial Nail Application	A. Wraps – 15 Hours 1. Fabric B. Acrylic – 25 Hours 1. Tip Overlay 2. Natural Overlay 3. Sculpt C. Gels – 15 Hours
15	Filing Techniques	a. Manual Filing – 1 Hour B. Nail Drill – 14 Hours
45	Repair & Maintenance	a. Wrap Fill – 15 Hours b. Acrylic Fill – 15 Hours 1. Two Tone b. Gel Fill – 15 Hours
10	Manicure/Pedicure	a. Manicure – 5 Hours b. Pedicure – 5 Hours
Total Hours 125	TOTAL HOURS FOR THE NAIL TECHNOLOGY PRACTICAL TRAINING CURRICULUM	
Total Hours 225	TOTAL HOURS FOR THE NAIL TECHNOLOGY PRACTICAL CURRICULUM	

36-012.07 Nail Technology Instructor Licensure: The program of studies consists of at least 300 hours of teachers' training in an accredited school of cosmetology or school of nail technology.

1. A final practical and written examination that covers all the subject areas listed in this curriculum is required for graduation.
2. Students must complete the following Nail Technology Student Instructor Class Curriculum:

NAIL TECHNOLOGY STUDENT INSTRUCTOR CLASS CURRICULUM (300 hours)			
MINIMUM HOURS	SUBJECT	SUBJECT CONTENT	
16	1. Student Instructor Orientation	A. B. C. D. E. F.	Introduction to Faculty, Staff, Student body School Policy Overview of the Student Instructor Training Program Statutes and Regulations Sanitation and Sterilization Regulations Teaching Techniques and Educational Tools Student and Instructor Relations/Counseling
50	2. Preparation of a Nail Technology Program	A. B. C.	Overview of Student Nail Technology Curriculum as required by State and School (Units) Detailed Course Outline (Chapters) Detailed Subject Layout (Daily Lessons)
150	3. Theory and Clinical Techniques (Must include Freshman and Advanced Student training experiences)	A. B. C.	Classroom Observations 1. Assist with a. Presentations/ Lectures b. Teaching basic skills c. Clinical Activities Clinical Observations 1. Supervision of Services 2. Student/Client Relationships Clinical Activities 1. Supervision of Procedures/Demonstrations 2. Practice Teaching/Basic Skills
40	4. The Student Instructor Learns to Evaluate Student Progress	A.	Basic Evaluation Techniques 1. Written, Observation, Oral
44	5. Administrative Techniques	A. B. C.	Office Management 1. Student Folder 2. Entrance Notification 3. Recording Student Hours 4. Graduate Records Office Records 1. State Rules and Regulations Governing Cosmetology Schools providing a nail technology program or School of Nail Technology 2. Enrollment Procedures 4. Maintaining Student Records Salon Management Operations 1. Client and Student Scheduling 2. Record Keeping Procedures 3. Receptionist Responsibilities 4. Inventory Control, Purchasing, Retailing
Total Hours 300	TOTAL HOURS FOR THE NAIL TECHNOLOGY STUDENT INSTRUCTOR CURRICULUM		

36-013 EXAMINATION ELIGIBILITY

36-013.01 Eligibility: To be eligible to take the licensure examination, an applicant must have met all the requirements for licensure that are specified in:

1. 172 NAC 36-003.01 for cosmetologists,
2. 172 NAC 36-004.01 for electrologists,
3. 172 NAC 36-005.01 for estheticians,
4. 172 NAC 36-006.01 for nail technologists, and
5. 172 NAC 36-007.01, 36-007.03, 36-007.05, and 36-007.07 for instructors, except the requirement of passing the examination.

Applicants who receive training in a foreign country and applying for licensure must meet the requirements specified in 172 NAC 36-008.01 except the requirement of passing the examination.

36-013.02 Examination Time-frame: Except for applicants applying for licensure by 172 NAC 36-008.01, no person may take his or her initial examination for licensure more than 2 years after the date upon which s/he graduated from the program of studies preparing him/her for such examination.

36-013.03 Examination Application: To take the licensure examination, an applicant must submit a complete licensure application.

36-014 EXAMINATION

36-014.01 Examination Procedures: Examinations must relate to the knowledge and skills necessary to perform the practices being examined and relate to the curricula required to be taught in schools of cosmetology or apprentice salons. The licensure examination must be administered at least 2 times annually and may be administered electronically at sites approved by the Department.

1. An applicant will be informed in writing or electronically of the licensure results within 60 days after the administration of the examination.

36-014.01A Re-examination of the Licensure Examination: An individual failing the examination may retake the examination by submitting a written request to the Department.

36-015 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses issued by the Department pursuant to the Act and these regulations expire as follows:

1. Cosmetologists on December 31 of each even-numbered year.
2. Cosmetology Instructors on December 31 of each even-numbered year.
3. Electrologists on July 31 of each odd-numbered year.
4. Electrology Instructors on July 31 of each odd-numbered year.
5. Estheticians on September 30 of each even-numbered year.
6. Esthetic Instructors on September 30 of each even-numbered year.
7. Nail Technicians on December 31 of each odd-numbered year.
8. Nail Technology Instructors on December 31 of each odd-numbered year.

36-015.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements as specified in 172 NAC 36-019;
2. Pay the renewal fee as prescribed in 172 NAC 37; and
3. Respond to the following questions:
 - a. Has your license in any health care profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?

These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the required hours of continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the licensee is currently on probation.

36-015.01 First Notice: At least 30 days before the expiration date, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

36-015.01A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 37;
6. The number and type of continued competency hours required for renewal; and
7. The option to place the license on inactive status.

36-015.01B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing the required hours of continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

36-015.01C If the licensee wishes to place his/her license on inactive status s/he must request that his/her license be placed on inactive status by submitting to the Department:

1. The renewal notice with a check in the box marked inactive; and
2. The fee of \$25.

36-015.01D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive status.

36-015.02 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 36-015.01 that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 36-022 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency hours within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 36-018.

36-015.02A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - (1) That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - (2) To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing the required hours of continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency; and

6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

36-015.02B If the licensee wishes to place his/her license on inactive status s/he must request that his/her license be placed on inactive status by submitting to the Department:

1. The renewal notice with a check in the box marked inactive; and
2. The fee of \$25.

36-015.02C The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive status.

36-015.03 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

36-015.04 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

36-015.05 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 36-015.03 and 36-015.04 will not apply.

36-015.06 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

36-015.07 An individual who practices after expiration of his/her credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 36-022, or such other action as provided in the statutes and regulations governing the credential.

36-016 EXEMPTION FROM CONTINUING COMPETENCY REQUIREMENTS

36-016.01 Grounds for Exemption: The Department, will exempt a licensee from the continuing competency requirements for any two-year licensing period when a licensee submits documentation that the licensee meets the requirements for exemption.

36-016.01A Circumstances and documentation will include:

1. Any licensee submitting proof that s/he was suffering from a serious or disabling illness or disability that prevented him or her from completing the continuing competency requirements is

exempt for the biennium (24 months) if, by the renewal date, s/he is able to practice effectively and to attend continuing competency seminars.

- a. The licensee must submit a statement from a physician stating that the licensee was injured or ill, the duration of the illness or injury, and the recovery period, and that the licensee was unable to attend continuing competency activities during that period.
2. Any licensee submitting proof of service in the regular armed forces of the United States during any part of the immediately preceding biennium (24 months) is exempt for that biennium.
 - a. The licensee must submit official documentation stating dates of service.
3. Any person receiving an initial license in Nebraska during the second year of the biennium (24 months) is exempt from the continuing competency requirement for that biennium only.
4. An instructor who meets the continuing competency requirements for the instructor's license is exempt from meeting the continuing competency requirements for his/her cosmetologist, electrologist, esthetic or nail technician license for that biennium (24 months).

36-016.01B Application: Any licensee who seeks an exemption from continuing competency must apply to the Department to be exempt from continuing competency. This application must be made on the renewal form and it must be received by Credentialing Division on or before:

1. Cosmetology and Cosmetology Instructor - December 31 of each year the license is subject to renewal,
2. Electrologist and Electrology Instructor – July 31 of each year the license is subject to renewal,
3. Esthetician and Esthetic Instructor - September 30 of each year the license is subject to renewal,
4. Nail Technician and Nail Technology Instructor - December 31 of each year the license is subject to renewal.

36-016.01C The Department will grant or deny an application for exemption from completion of the continuing competency requirements.

1. When the Department determines to deny an application for exemption of completion of continuing competency requirements, it will send to the applicant's last name and address of record in the Department, a notice setting forth the reasons for the denial determination.
 - a. The applicant has 15 days from the date of the denial notice to make a written request to the Department for an

appeal. The appeal will be conducted in accordance with 184 NAC 1, Rules of Practice and Procedure for the Department.

2. When the Department determines to grant an exemption from completion of continuing competency, the applicant is issued a renewed license if all other requirements are met.

36-016.01D Failure to submit required documentation of approved continuing competency will constitute grounds for non-renewal of licensure, unless an exemption from continuing competency is granted. Such non-renewal will result in revocation of licensure.

36-016.01E Falsification of any information submitted for renewal of licensure may require the Department to refuse to renew a license. Such refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and in accordance with 184 NAC 1 Rules of Practice and Procedure of the Department.

36-017 AUDIT OF CONTINUING COMPETENCY: The Board may select, in a random manner, a sample of the license renewal applications for audit of continuing competency hours or credits. Notice of the random audit will be sent to the selected licensees. Each licensee is responsible for maintaining in his/her personal files the certificates or records of hours or credits from continuing competency activities. Licensees selected for audit must produce documentation of his/her attendance at those continuing competency activities s/he attested to on the renewal application.

1. When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in approved continuing competency activities attested to on the licensee's renewal form. Documentation may include, but is not limited to, certificates of attendance, certified attendance rosters, and letters from providers of the continuing competency program verifying attendance.
2. Documentation must be submitted to the Department within 30 days of the date of the request for documentation.
3. Failure to comply with the audit may result in a revocation of the license.
4. Continuing competency hours for which no documentation of attendance is submitted will not be included in the final calculation of the total number of continuing competency hours earned.

36-018 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department may revoke a credential when the credential holder fails to meet the renewal requirements.

36-018.01 Revocation for Nonpayment of Renewal Fee or Late Fee, or Failure to Submit Documentation of Continuing Competency within Thirty Days of Expiration of the Credential

36-018.01A When a credential holder fails to pay the required renewal fee, to

submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on inactive status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

36-018.01A1 A post revocation notice will be sent which specifies that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential holder failed to renew the credential or to request that his/her credential be placed on inactive status;
3. The Department has revoked the credential; and
4. The credential holder has a right to request reinstatement of the credential.

36-018.02 Revocation for Failure to Meet Continuing Competency Requirements

36-018.02B When a credential holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

36-018.02B1 The revocation notice for failure to meet continuing competency requirements specifies that:

1. The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive status;
3. The credential has been revoked for failure to meet continuing competency requirements within thirty days after expiration of the credential and that the revocation will become final unless a request for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
4. The credential holder has a right to request reinstatement of the credential after revocation.

36-019 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSEES

36-019.01 General Requirements: Licensees are required to complete the following continuing competency hours. No licensee will be required to complete more hours than are available at approved/acceptable programs within the State of Nebraska.

36-019.01A Cosmetologists and Cosmetology instructors are required on or before December 31 of each even-numbered year to complete at least 8 hours of continuing competency during the preceding 24 month period;

36-019.01B Electrologists and Electrology Instructors are required on or before July 31 of each odd-numbered year to complete at least 8 hours of continuing competency during the preceding 24 month period.

36-019.01C Estheticians and Esthetics Instructors are required on or before September 30 of each even numbered year to complete at least 8 hours of continuing competency the preceding 24 month period.

36-019.01D Nail Technicians and Nail Technology Instructors are required on or before December 31 of each odd-numbered year to complete at least 8 hours of continuing competency during the preceding 24 month period.

36-019.02 Continuing Competency Areas and Hours Cosmetologists, Electrologists, Estheticians, and/or Nail Technicians: Each licensee must obtain at least 8 hours of continuing competency each biennial renewal period.

36-019.02A Mandatory Hours per each Biennial Renewal Period:

1. A licensee is required to complete at least 4 hours of continuing competency in the defined licensure category; all 8 may be obtained through these hours.
2. These hours must be approved by the Board pursuant to 172 NAC 36-019.07.
3. The following table sets out the required continuing competency areas:

Cosmetology	Electrology	Esthetics	Nail Technology
1. A licensee must complete at least 4 hours directly related to cosmetology as defined in 172 NAC 36-002. The program must be approved by the Board.	1. A licensee must complete at least 4 hours directly related to electrology as defined in 172 NAC 36-002. The program must be approved by the Board.	1. A licensee must complete at least 4 hours directly related to esthetics as defined in 172 NAC 36-002. The program must be approved by the Board.	1. A licensee must complete at least 4 hours directly related to nail technology as defined in 172 NAC 36-002. The program must be approved by the Board.
2. These 4 hours can not be homestudy.	2. These 4 hours can not be homestudy.	2. These 4 hours can not be homestudy.	2. These 4 hours can not be homestudy.
3. Completion of a Cosmetology, Esthetician, Nail Technology or Barbering course is accepted as meeting these 4 hours.	3. Completion of a Cosmetology, Esthetician, Nail Technology or Barbering course is accepted as meeting these 4 hours.	3. Completion of a Cosmetology, Esthetician, Nail Technology or Barbering course is accepted as meeting these 4 hours.	3. Completion of a Cosmetology, Esthetician, Nail Technology or Barbering course is accepted as meeting these 4 hours.

36-019.02B Additional Topic Areas for Continuing Competency:

1. In addition to the mandatory 4 hours in 172 NAC 36-019.02A, a licensee may obtain continuing competency through one or a combination of the following topic areas for cosmetology, electrology, esthetics, and/or nail technology; hours apply to each biennial renewal:
 - a. Homestudy programs (relating to the profession or any of the following topic areas) – Up to 2 hours;
 - b. CPR/First Aid – Up to 4 hours;
 - c. Equipment use (used within the profession) - Up to 4 hours;
 - d. People skills/special needs (other similar titles) - Up to 2 hours;
 - e. Product knowledge (used within the profession) - Up to 4 hours;
 - f. Marketing - Up to 4 hours;
 - g. Technical School/University/College - Up to 4 hours – only the following types of courses are considered acceptable:
 - (1) Practice Related;
 - (2) Communications;
 - (3) Humanities;
 - (4) Sciences;
 - (5) Business, i.e. Finance, Marketing, Computer, or other similar courses; and
 - (6) Well-Being, i.e. Psychology, Sociology, or other similar courses;
 - h. Applicable Licensing Examination- 2 hours;
 - i. Barbering School classes - Up to 4 hours; and
 - j. Sanitation/Safety – up to 4 hours.
2. These hours are not required to be approved by the Board.
3. Licensees must obtain evidence of completion or attendance.

36-019.03 Instructor Continuing Competency Areas and Hours: Each instructor must obtain at least 8 hours of continuing competency each biennial renewal period.

36-019.03A Mandatory Hours per each Biennial Renewal Period:

1. Effective January 1, 2005, all Instructors must complete at least 4 hours of teaching methodology classes (example: teaching styles, presentation methods, lesson planning, test development, teaching difficult students); all 8 hours may be obtained through these hours.
2. These hours must be approved by the Board pursuant to 172 NAC 36-019.07.

36-019.03B Additional Topic Areas for Continuing Competency:

1. In addition to the mandatory hours in 172 NAC 36-019.03A, an Instructor licensee may obtain continuing competency through one or a combination of the following topic areas; hours apply to each biennial renewal:
 - a. Homestudy programs (relating to the profession or any of the following topic areas) – Up to 2 hours;
 - b. CPR/First Aid – Up to 2 hours;
 - c. Equipment use (used within the profession) - Up to 4 hours;
 - d. People skills/special needs (other similar titles) - Up to 2 hours;
 - e. Product knowledge (used within the profession)- Up to 4;
 - f. Marketing - Up to 4 hours;
 - g. Technical School/University/College - Up to 4 hours - only the following types of courses are considered acceptable:
 - (1) Practice Related;
 - (2) Communications;
 - (3) Humanities;
 - (4) Sciences;
 - (5) Business, i.e. Finance, Marketing, Computer, or other similar courses; and
 - (6) Well-Being, i.e. Psychology, Sociology, or other similar courses;
 - h. Licensing Examination- 2 hours;
 - i. Barbering School classes - Up to 4 hours;
 - j. National Educators Conference – Up to 8 hours;
 - k. Instructor licensing test – 2 hours;
 - l. Completion of Cosmetology, Esthetics, or Nail Technology Course – 4 hours; and
 - m. Sanitation/Safety – up to 4 hours.
2. These hours are not required to be approved by the Board.
3. Licensees must receive evidence of completion or attendance.

36-019.04 At the time of renewal, on the renewal form, attest to completing the required continuing competency hours.

36-019.05 Licensee Responsibilities: The licensee is responsible for:

1. Maintaining a record of attendance and documentation of attendance at continuing competency programs for 3 years.
2. The licensee may verify with the Department if a program is approved/acceptable. The Department will maintain a list of all approved and denied programs.

36-019.06 Credit for Presentation of Programs: A licensee may include in his/her required continuing competency hours any approved/accepted program in which the

licensee participates as a presenter. Licensees may receive credit only for the initial presentation during a single renewal period, regardless of the number of times a program is presented.

36-019.07 Approval of the Mandatory 4 Hours of Continuing Competency: The Board will evaluate applications from licensees or providers for approval of the required 4 hours of continuing competency programs. Approval may be granted for a specific number of hours designated by the licensee or provider. Only those programs which directly relate to the applicable profession pursuant to 172 NAC 36-002 will be approved.

1. Program Approval: To be approved, the continuing competency program must meet the following requirements:
 - a. All programs must be at least 2 hours, but not more than 8 hours per day in duration;
 - b. Objectives for all programs must relate directly to the applicable profession pursuant to 172 NAC 002;
 - c. All education must be generic in nature and not product sales oriented. Promotion or sale of products is prohibited during the mandatory 4 hours of continuing competency programs. Product knowledge is defined as the information required for safe and proper use to achieve the desired results. Product names may be used when required to identify procedures specifically unique for that product;
 - d. Presenters of programs must be qualified by education, experience, or training and must be licensed or registered in Nebraska if physically present at the program;
 - e. Programs must be open to all cosmetologists, electrologists, estheticians, nail technicians, and/or instructors licensed in Nebraska. Publicity must state that the program is open to all licensees;
 - f. The programs must identify the category of licensure for which it seeks approval: cosmetologist, electrology, esthetics, instructor or nail technology; and
 - g. An amended application must be submitted for the program if any change in the presenter occurs, but the agenda remains the same.
2. Program Application: To obtain approval of a continuing competency program, a provider or licensee must submit an application on Attachment O, which must include the following information:
 - a. An agenda of the program indicating actual presentation times. This agenda must specify designated break times and time for the promotion or sale of products, if applicable;

- (1) Continuing competency credit will not be given for designated break times and time for promotion or sale of products.
 - b. The title of the program;
 - c. A detailed description of program content. This description must specify the information to be presented and methods by which the information is to be presented. These methods may include, but are not limited to: hands on demonstration, video/slides or picture demonstration. Video/slide presentations must be identified as to content and producer information;
 - d. A statement of the skills which the participants are expected to gain from the program content. A separate statement is required for each licensure category for which continuing competency credit is being requested;
 - e. A Nebraska Guest Artist Registration or a description of the qualifications of each presenter which includes the individual's license number, profession, state of licensure, education, experience, and training that qualifies the individual to present the program. All presenters must be identified;
 - f. The number of hours for which approval is requested;
 - g. The date, location, city and state of each program;
 - h. The name, address, and telephone number of the individual submitting the application;
 - i. A description of the process the provider uses to verify attendance by the licensee and method of monitoring attendance;
 - j. A sample copy of the documentation the provider issues to the licensee as proof of attendance at the program and a sample of the attendee sign-in sheet;
 - k. An amended application must be submitted if any change in presenter occurs but the agenda remains the same; and
 - l. A separate continuing competency program fee, which is non-refundable, must be paid for each application or amended application for program approval.
3. Additional Program Information: An applicant may submit additional documents or information as the applicant may consider relevant to the application and compliance with 172 NAC 36-019.07.

36-019.08. Approval by Another Accrediting Body: Any program offered outside the State is approved by the appropriate accrediting body within the state which it is held or by Nebraska in accordance with 172 NAC 36-019 if the jurisdiction does not require approval by an accrediting body. Documentation of approval by another accrediting body must be submitted on Attachment P which must include the following information:

1. The name of the program, date, and location;
2. The number of hours for which approval is granted by the other accrediting body; and
3. Documentation of approval by the other accrediting body.

36-019.09 Approval of Programs Submitted By Providers: The Board will act within 30 days upon all completed applications for continuing competency approval and will notify the applicant. If the application is approved, the Board will issue a program number to the provider.

36-019.10 Approval of Programs Submitted by Licensees: The Board approves programs which are submitted by licensees, who are not providers, for their professional education as follows:

1. Programs approved or sponsored by the following organizations:
 - a. Accrediting Council for Continuing Competency and Training in Affiliation with the National Cosmetology Association;
 - b. American Association of Cosmetology Schools;
 - c. Beauty and Barber Supply Institute;
 - d. International Hair Color Exchange;
 - e. National Association of Cosmetology Schools;
 - f. State cosmetology associations outside Nebraska; or
 - g. Other similar nationally recognized organizations.
2. Submission of proof of attendance, dates of attendance, an outline of program content, and a statement of the skills which the participant gained from the program content.
3. A program application fee is not required.
4. A program number will not be assigned.

36-019.11 Individuals initially licensed during the second half of the biennium may identify training earned during the first half of the biennium as meeting the renewal requirement.

36-019.12 Incomplete Applications: Only applications which are complete will be considered. In order to be considered complete, an application must:

1. Contain all of the information requested in "Attachment O" or "Attachment P" attached to these regulations and incorporated by this reference;
2. Contain the signature of the individual submitting the application.

3. In the event that an application is determined to be incomplete, the Division will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of such additional information. The applicant will have 30 days in which to provide the information necessary to complete the application. Should an applicant fail to complete the application within such 30 day period, all materials will be returned and a new application is required.

36-019.13 Advertisement of Approval: After the Board has granted its written approval of the application, the provider is entitled to state upon its publications: "This program is approved for _____ (number of hours approved) Nebraska continuing competency hours". Advertisements must identify the title of the program identical to the title approved by the Board.

36-019.14 Prior Approval: To obtain prior approval of continuing competency programs, a complete application must be submitted to the Department at least 60 days prior to the date on which the program is to be announced as approved.

36-019.15 Post-Program Approval: Licensees may request approval of continuing competency programs held in states which do not require continued education as a condition of license renewal or in foreign countries of residence where attended. Applications for approval of continuing competency programs may be made after the program has occurred, except that applications for approval submitted 30 days before December 31 the renewal date will not be considered for approval for the renewal period.

36-019.16 Applications Not Approved: Applications for a continuing competency program, if not approved, will be returned and a written explanation of the program's efficiencies will be given to the applicant. Fee is nonrefundable.

36-019.17 Continuing Competency Certificate of Completion:

1. Certificate of Completion: Each provider of an approved continuing competency program must furnish to each person completing the program a certificate of completion. Each certificate must include the following;
 - a. Program name and number;
 - b. Name of the participant and his/her license number;
 - c. Provider's name;
 - d. Date the program began and ended;
 - e. Location, (City and State) of program;
 - f. Number of hours for which the program was approved; and
 - g. Category in which the program was classified.
2. Evidence of Program Completion: Presentation of the Certificate constitutes evidence that the person complied with all requirements of the program and did complete the program.

36-019.18 Program Monitoring: The provider must employ a reliable system to monitor the physical presence of participants throughout the entire program. If a participant chooses not to participate in the entire program, the certificate of attendance must reflect the participant's actual hours of attendance.

36-019.19 Program Attendance: The provider of an approved program must maintain documentation of attendance for a period of 3 years.

36-020 SANCTIONS RELATING TO CONTINUING COMPETENCY

36-020.01 Continuing Competency Programs: The Board may deny an application for approval of a continuing competency program or will suspend or revoke approval of a continuing competency program on any of the following grounds:

1. Failure to meet the requirements of 172 NAC 36-019.07;
2. Fraud or misrepresentation in an application; or
3. Failure to reflect participant's actual hours of attendance upon the certificate issued.

36-020.02 Exemptions: The Department may deny an application for exemption from continuing competency requirements or revoke an exemption on any of the following grounds:

1. Failure to meet the requirements of 172 NAC 36-016; or
2. Fraud or misrepresentation on an application.

36-020.03 False Information: Licensees who submit affidavits of continuing competency or applications for exemption of continuing competency which contain false information violate Neb. Rev. Stat. §§ 71-147 and 71-148, and are subject to disciplinary action.

36-020.04 Failure to Meet Continuing Competency Requirements: The Department will revoke the license of any licensee who has failed to satisfy the continuing competency requirements of Neb. Rev. Stat. §§71-382, 71-3,107 through 71-3,117 or these regulations, unless such licensee has been granted a waiver. The Department will provide notices to the licensee of failure to meet continuing competency requirements in accordance with the procedures set forth in Neb. Rev. Stat. §71-110.01. Upon the failure of the licensee to respond to such notices, the Department will issue an order of revocation. Revocation is final, unless within 30 days after the mailing of the order, the licensee provides written notice to the Department of a desire for hearing. Hearings will be conducted in accordance with Neb. Rev. Stat. § 84-901 to 84-920, and 184 NAC 1, the Rules of Practice and Procedure of the Department.

36-021 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

36-021.01 Eligibility

36-021.01A An individual whose credential has been previously:

1. Placed on inactive status;

2. Revoked for failure to meet the renewal requirements;
3. Suspended or limited for disciplinary reasons; or
4. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

36-021.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

36-021.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 36-022, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

36-021.02 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

36-021.03 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges

- and disposition;
- [2] Arrest records;
- [3] A letter from the applicant explaining the nature of the conviction;
- [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - [1] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (c) Disciplinary charges pending against any professional credential held by the applicant.
- f. Verification that the continuing competency requirements for renewal have been met;
- 2. The renewal fee and any other applicable fees; and
- 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential;
 - or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

36-021.03A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 36-022;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

36-021.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

36-021.03C In either event pursuant to 172 NAC 36-021.03A or 36-021.03B, a notice and the opportunity for hearing will be given to the applicant.

36-021.03D The Department will act within 150 days on all completed applications.

36-021.04 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential, or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

36-021.05 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - [a] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.

- (f) Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees.
3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 36-022 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 36-021.05B below.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

36-021.05A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions, or restrictions; or
3. Deny reinstatement.

36-021.05B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstate the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 36-022 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstate the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 36-022 if warranted; or
 - b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

36-021.06 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

36-021.07 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and

- [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.
 - (6) Verification that the continuing competency requirements for renewal have been met.
2. The renewal fee, the late fee of \$75 and any other applicable fees; and
3. Attestation by the petitioner:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 36-022 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 36-001.08E.

36-021.07A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

36-021.07B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

36-021.07C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

36-021.07D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

36-021.07D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

36-021.07E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or

records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

36-021.07F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

36-021.07F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

36-021.07F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

36-021.07F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

36-021.07F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

36-021.07F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

36-021.08 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same

- profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
- b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;
 3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

36-021.09 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
[1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and

- [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner;
 - (6) Any continuing competency activities.
2. The reinstatement fee of \$75.
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential;
 - or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 36-022 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 36-021.09F below.

36-021.09A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

36-021.09B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

36-021.09C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

36-021.09D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

36-021.09E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

36-021.09E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

36-021.09E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of such petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

36-021.09F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

36-021.09G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

36-021.09G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner,

the Department will submit the following to the Director:

- a. The application;
- b. The written recommendation of the Board, including any finding of fact or order of the Board;
- c. The petition submitted to the Board;
- d. The record of hearing, if any;
- e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.

4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

36-021.09G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;

- b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
- a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

36-021.09G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

36-021.10 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

36-021.10A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

36-021.10A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;

- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Any continuing competency activities; and
- g. Attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

36-021.10A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 36-022;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

36-021.10A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or

3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

36-021.10A4 In either event pursuant to 172 NAC 36-021.10A2 or 36-021.10A3, a notice and the opportunity for hearing will be given to the applicant.

36-021.10A5 The Department will act within 150 days on all completed applications.

36-021.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

36-021.11A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.

36-021.11B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 36-022.

36-021.12 Credentials Voluntarily Surrendered or Limited Permanently

36-021.12A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

36-022 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

36-022.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

36-022.02 Penalty: The Department may assess an administrative penalty in the amount of

\$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property; and
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

36-022.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

Approved by Attorney General:	August 2, 2004
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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 37 FEES FOR BODY ART, COSMETOLOGY, ELECTROLOGY,
ESTHETICS, AND NAIL TECHNOLOGY

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 37 FEES FOR BODY ART, COSMETOLOGY, ELECTROLOGY,
ESTHETICS, AND NAIL TECHNOLOGY

37-001 SCHEDULE OF FEES FOR INDIVIDUALS: The following fees have been set by the Department:

37-001.01 Initial License Fee: By an applicant for a license to practice the fee as set below, the Licensee Assistance Program (LAP) fee of \$1 for each year remaining during the current biennial renewal period, and the actual cost of the examination. Instructors are not required to pay the additional LAP fee.

1.	Cosmetologist	\$30
2.	Cosmetology Instructor	\$30
3.	Electrologist	\$30
4.	Electrology Instructor	\$30
5.	Esthetician	\$30
6.	Esthetic Instructor	\$30
7.	Nail Technician	\$30
8.	Nail Technology Instructor	\$30
9.	Body Piercer	\$30
10.	Body Brander	\$30
11.	Permanent Color Technician	\$30
12.	Tattoo Artist	\$30

37-001.02 Pro-rated Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1. Instructors are not required to pay the additional LAP fee.

37-001.03 Initial Registration Fee: By an applicant for a registration to practice the fee as below;

1.	Cosmetician	\$10
2.	Guest Artist	\$10
3.	Guest Body Artist	\$10

37-001.04 Temporary License Fee: By an applicant for a temporary license, the fee of \$15.

37-001.05 License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice, the fee as set below and the Licensee Assistance Program fee of \$2. Instructors are not required to pay the additional LAP fee.

1.	Cosmetologist	\$30
2.	Cosmetology Instructor	\$30
3.	Electrologist	\$30
4.	Electrology Instructor	\$30
5.	Esthetician	\$30
6.	Esthetic Instructor	\$30
7.	Nail Technician	\$30
8.	Nail Technology Instructor	\$30
9.	Body Brander	\$30
10.	Body Piercer	\$30
11.	Permanent Color Technician	\$30
12.	Tattoo Artist	\$30

37-001.06 Inactive License Status Fee: By an applicant to have his/her credential placed on inactive status, the fee of \$25.

37-001.07 Renewal Late Fee: By an applicant for renewal on a biennial basis of a credential, who fails to pay the renewal fee on or before the expiration date of his/her credential, the fee of \$25 as a late fee in addition to the renewal fee.

37-001.08 Certification of License Fee or Certification of Hours and Grades: For issuance of a certification of a credential, the fee of \$25. The certification includes information regarding:

1. The basis on which a credential was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the credential; and
4. The current status of the credential.

37-001.09 Verification of License Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.

37-001.10 Duplicate or Reissued License Fee: For a duplicate of the original license document or reissued license, the fee of \$10.

37-001.11 Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the credentialing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

37-001.12 Reinstatement Late Fee: For reinstatement of a credential for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee; or
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

37-001.13 Reinstatement Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

37-002 SCHEDULE OF FEES FOR ESTABLISHMENTS: The following fees have been set by the Department:

37-002.01 Initial License Fee: By an applicant for a license to operate an establishment, the fee as set below:

1.	Apprentice Training Salon	\$100
2.	Cosmetic Establishment	\$30
3.	Cosmetology Salon	\$60
4.	Nail Technology Salon	\$60
5.	Skin Care Salon	\$60
6.	Home Service Permit	\$30
7.	Nail Technology School	\$200
8.	School of Cosmetology	\$200
9.	School of Esthetics	\$200
10.	Satellite Classroom	\$100
11.	Transfer School Location with the County	\$200
12.	Body Art Facility	\$60

37-002.02 License Renewal Fee: By an applicant for renewal on a biennial basis of a license to operate an establishment, the fee as set below:

1.	Apprentice Training Salon	\$100
2.	Cosmetic Establishment	\$30
3.	Cosmetology Salon	\$60
4.	Nail Technology Salon	\$60
5.	Skin Care Salon	\$60
6.	Home Service Permit	\$30
7.	Nail Technology School	\$200
8.	School of Cosmetology	\$200
9.	School of Esthetics	\$200
10.	Satellite Classroom	\$100
11.	Body Art Facility	\$60

37-002.03 Renewal Late Fee: By an applicant for renewal on a biennial basis of a credential, who fails to pay the renewal fee on or before the expiration date of his/her credential, the fee of \$25 as a late fee in addition to the renewal fee.

37-002.04 Certification of License Fee: For issuance of a certification of a credential, the fee of \$25. The certification includes information regarding:

1. The date of issuance;
2. Whether disciplinary action has been taken against the credential; and
3. The current status of the credential.

37-002.05 Verification of License Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.

37-002.06 Duplicate or Reissued License Fee: For a duplicate of the original license document or reissued license, the fee of \$10.

37-002.07 Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the credentialing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

37-002.08 Reinstatement Late Fee: For reinstatement of a credential for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee.

37-002.09 Reinstatement Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

37-002.10 Repeat Establishment Inspection: If an establishment fails the initial or routine inspection and a repeat inspection is completed, the fee of \$50.

37-003 SCHEDULE OF FEES FOR CONTINUING COMPETENCY PROGRAMS: The following fees have been set by the Department:

- | | |
|----------------------------|------|
| 1. Cosmetology Program | \$10 |
| 2. Electrology Program | \$10 |
| 3. Esthetic Program | \$10 |
| 4. Nail Technology Program | \$10 |
| 5. Instructor Program | \$10 |

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 43 SANITATION AND SAFETY RELATING TO COSMETOLOGY AND ESTHETICS SERVICES

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 43 SANITATION AND SAFETY RELATING TO COSMETOLOGY AND ESTHETICS SERVICES

43-001 Scope and Authority: These regulations apply to the safe practice of cosmetology and esthetics within cosmetology and esthetic establishments as defined in Neb. Rev. Stat. §§ 71-340 through 71-3,238 and wig establishments as herein defined. In order to be properly credentialed with the Department of Health and Human Services Regulation and Licensure, the owners of establishments, cosmetologists, estheticians, and students/apprentices must comply with these regulations.

43-002 Definitions

Apprentice means a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology under the supervision of an instructor in an apprentice salon.

Closed/covered receptacle, container, bottles and/or drawer means fitting tightly with a lid, door, or shutting of a drawer and may have vents.

Conspicuous place means reception area, clinical area, or any area where visible and accessible to the public.

Disinfectant means an EPA-registered hospital grade disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal, used in accordance with the manufacturer's instructions for mixing and immersion.

Disinfection means cleansing to remove agents of infection, disease, or infestation by insects or vermin, and soil, dust, or foreign material.

Equipment/Furniture means those items needed to operate an establishment which are usually considered stationary, for example, chairs, cabinets, sinks, stations, and facial beds.

Electrical appliances means blow dryers, clippers, wax machines, thermal curling irons, gel lights, and similar portable electric powered appliances.

Enclosed container, drawer, and/or cabinet means fitting tightly with a lid, door, or shutting of a drawer and does not have vents.

Establishment means a cosmetology establishment that includes a cosmetology salon, apprentice salon, school of cosmetology, esthetician salon, or school of esthetics.

EPA means the United States Environmental Protection Agency.

Implement means scissors, combs, brushes, rollers, perm rods, bobby pins, clippies, or other similar items.

Nail technology student means a person engaged in the study of the practices of nail technology under the supervision of a nail technology instructor in a nail technology school.

Supplies/materials means cotton balls/cotton pads, end papers, foil, frost caps, disposable capes, neck strips, single use cosmetic applicators, sponges, orangewood sticks, or other similar items.

Student means a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology or esthetics under the supervision of an instructor or esthetics instructor in a school of cosmetology or school of esthetics.

Wet-sanitizer means a closed receptacle which holds the disinfectant solution.

Wig establishment means any place or any part thereof wherein wigs, wiglets, or any other types of hair pieces of any person are subject to the practices of arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, or a similar servicing process or any one or combination of such practices--by any means with hands or mechanical or electrical apparatus or appliances. The term "Wig Establishment" does not include, however, any barber shop or any place, or any part thereof, where wigs, wiglets, or hair pieces are sold only, but are not serviced or otherwise worked upon in any manner after the sale of such item. As defined, the Department will treat "Wig Establishments" as beauty salons.

43-003 Documents Posted: The owner must ensure that the following documents are posted in each establishment in a conspicuous place:

1. A copy of the regulations governing sanitation and safety for the information and guidance of all persons employed or studying therein and for the general public;
2. The most recent rating sheet for the information of the general public, students/apprentices, and employees; and
3. The most current licensure renewal card for each person practicing within the establishment, for public viewing (photocopies are not acceptable).

43-004 Personal Cleanliness: The owner must ensure that the following procedures for personal cleanliness are observed in the establishment.

43-004.01 Attire: Every cosmetologist, esthetician, and student/apprentice, while engaged in serving students/apprentices or the public, must be clean in person and in attire, and free from any communicable disease, which may be communicated in the usual course of practice.

43-004.02 Licensee Hand Cleanliness: Every cosmetologist, esthetician, and student/apprentice must:

1. Wash his/her hands thoroughly with liquid soap and water or an instant hand sanitizer, before serving each client;
2. Change gloves upon contamination; and
3. Use gloves that are free of tears or holes.

43-005 Physical Structure: The owner must ensure that the establishment is well lighted, well ventilated and kept in a clean, orderly, sanitary condition at all times.

43-006 Ventilation: The owner must ensure that a consistent fresh air supply is provided to the establishment. In addition, fans may be provided to circulate the air within the establishment. S/he may do so by using one or more of the following:

1. A ventilation system which is in good, working condition; or
2. A furnace or air conditioner in which:
 - a. The air distribution system filters are cleaned or replaced annually or more often if needed to avoid restriction of airflow; and
 - b. The furnace fan setting is placed on "continuous" or "on" setting at all times the salon is occupied to ensure fresh air is coming into the salon;
3. Open windows/doors and a fan to provide and circulate fresh outside air; or
4. Portable fans and ceiling fans, which are, clean and have no worn or bare wiring and are operated in a safe manner.

43-007 Water

43.007.01 The owner must ensure that the establishment has a supply of hot and cold running water in sufficient quantities to conduct the establishment in a sanitary manner, specifically that:

1. In cities or villages in which an authorized public water supply is available, the establishment must be connected to the public water supply; and
2. Hot water tanks and receptacles must have a capacity of ten gallons or more.

43-007.02 The owner must ensure that wastewater is disposed of through a system that carries it away from buildings and is either:

1. A public sewer connection; or
2. A private disposal system that complies with state law, city or village ordinances, and local health authority requirements.

43-008 Safety: The owner must maintain the establishment in a safe condition. S/he must ensure that:

1. Floors, floor coverings, walls, woodwork, ceilings, furniture, fixtures and equipment are clean and in good repair;
2. Floors are free of unsafe objects and slippery or uneven surfaces;
3. Doors, stairways, passageways, aisles or other means of exit provide safe and adequate access;
4. Electrical appliances or apparatus are clean and have no worn or bare wiring to avoid fires, shocks, and electrocution; and
5. Water or product spills on the floor are removed immediately and floor dried to avoid falls.

43-009 Restroom Facilities: The owner must keep restrooms clean, orderly, and sanitary at all times.

43-009.01 The owner must ensure that:

1. Chemicals are not stored in the restroom, except in a locked cabinet;
2. The toilet and sink is clean and operational; and
3. The following are available at all times:
 - a. Suitable holders for toilet paper;
 - b. An adequate supply of toilet paper;
 - c. A clean waste receptacle, with a disposable plastic liner;
 - d. Hot and cold running water;
 - e. Liquid soap;
 - f. Single-use disposable towels; and
 - g. Appropriate, clean towel holders.

43-010 Laundry Facilities: If the establishment has a laundry facility, the owner must ensure that:

1. It is clean, including the washer and dryer;
2. It has a closed receptacle in which to store soiled towels; and
3. The equipment is used for the establishment laundry only, not personal items.

43-011 Equipment/Furniture

43-011.01 The owner must ensure that all equipment/furniture is in good repair and in a sanitary condition at all times.

43-012 Storage: The owner must ensure that storage within the establishment meets the following requirements. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements.

1. Flammable and combustible chemicals are stored away from potential sources of ignition such as an open flame or an electrical device;

2. All chemicals are stored in closed bottles or containers;
3. No chemicals are stored:
 - a. Where food is kept; or
 - b. In the restroom, unless in a locked cabinet;
4. Storage units:
 - a. Cabinets, drawers, containers used for storage of implements and towels are clean;
5. Supplies:
 - a. Unused supplies are stored in a clean, enclosed container or drawer;
 - b. Used/soiled disposable supplies are discarded immediately in a clean, closed waste receptacle with a plastic liner;
6. Implement Storage:
 - a. Implements that have been used on a client or soiled in any manner are placed in a properly labeled covered receptacle until disinfected;
 - b. Sanitized implements are stored in a clean closed container or drawer until used;

43-013 Material Safety Data Sheet (MSDS): The owner must ensure that an MSDS for every product pertaining to cosmetology and esthetics client services is accessible at all times, to all employees.

43-014 Towels/Linens: The owner must ensure that the use of towels/linens in the establishment meets the following requirements. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements.

43-014.01 Used/Soiled Towel/Linen Storage:

1. Cloth towels/linens are deposited in a closed receptacle after use;
2. Used/soiled cloth towels/linens are not used again until properly laundered and sanitized; and
3. Disposable towels are discarded in a closed waste receptacle, with a plastic liner, immediately following each cosmetology or esthetics service.

43-014.02 Laundry: Cloth towels are laundered either:

1. By regular commercial laundering; or
2. By a noncommercial laundering process which includes immersion in water at 140 degrees Fahrenheit for not less than 15 minutes during the washing or rinsing operation.

43-014.03 Clean Towel/Linen Storage:

1. All clean towels/linens are stored in a clean, enclosed cabinet or container until used; and
2. All disposable towels are stored in a clean, enclosed cabinet or container until used.

43-015 Products: The owner must ensure that the use of products in the establishment meets the following requirements. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements.

1. All liquids, cosmetics, creams, gels, pastes, powders, and other products are kept in clean, closed containers;
2. Original product bottles and containers have an original manufacturer label, which discloses their contents;
3. When only a portion of the product is to be used on a client, the product is removed from the container by a spatula, scoop, spoon, or dropper so that the product does not come in direct contact with the client and to assure the remaining product is not contaminated; and
4. If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container is labeled to identify the product.

43-016 Supplies and Materials: The owner must ensure that the use of supplies and materials in the establishment meets the following requirements. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements.

1. Washable and disinfectable dusters or brushes, such as plastic or nylon, may be used;
2. No non-washable or non-disinfectable dusters or brushes, such as sable or fabric, are used;
3. Neck strips or a clean towel must be used under a cape in order to prevent the cape from coming into contact with the skin or hair of each client; a sanitized or disposable cape (1 per client) may be used in lieu of neck strips or towels; and
4. Supplies and implements which come in direct contact with a client and cannot be disinfected, such as cotton pads, cotton balls, neck strips, orangewood sticks, pads, "Q-tips", sponges, and other similar items, are disposed of in a covered waste receptacle, with a plastic liner, immediately after use.

43-017 Methods of Disinfection: The owner must ensure that all implements are disinfected before use on a client by using the following procedures. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements.

43-017.01 Immersion Disinfection:

1. Remove foreign matter;
2. Wash hands with liquid soap and water or an instant hand sanitizer;
3. Wash implement with hot water and soap to remove all traces of soil;
4. Thoroughly rinse in water to remove all traces of soap.
5. Place the implement in an EPA-registered hospital grade disinfectant, prepared according to the directions on the label (alcohol, bleach or hydrogen peroxide are not acceptable disinfectants):
 - a. The disinfectant must be proven effective against HIV-1, Hepatitis B, or Tuberculocidal;
 - b. The disinfectant solution must be deep enough to cover implements totally; and
 - c. The implements must stay in the disinfectant solution for ten minutes or more;
6. Before removing the sanitized implement(s), wash hands with liquid soap and water or an instant hand sanitizer;
7. Rinse the implement(s) in water;
8. Air-dry on a sanitary surface, dry with a clean sanitized towel, or dry with an electric air sanitizer; and
9. Store in a clean enclosed cabinet or covered container reserved for clean implements.

43-017.03 Spray Disinfection: Metal implements may be sprayed.

1. Remove foreign matter;
2. Wash hands with liquid soap and water or an instant hand sanitizer;
3. Spray implement until it is totally saturated with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal.

43-017.04 Non-Acceptable Disinfection Methods: Neither formaldehyde vapor nor ultraviolet ray treatment procedures are acceptable in lieu of the immersion or spray disinfection methods.

43-018 Disinfectant Solution Storage and Cleanliness: The owner must ensure that the use of disinfectant solution in the establishment meets the following requirements. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements.

1. The disinfectant solution remains covered at all times;
2. The disinfectant solution is changed whenever visibly cloudy or dirty but no less often than once a week; and
3. Follow manufacturer's directions for mixing.

43-019 Disinfecting Electrical Appliances: The owner must ensure that the use and sanitation of electrical appliances meets the following specifications. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements.

43-019.01 Electrical appliances have no bare or worn wires.

43-019.02 Electrical appliances that come in contact with a client's hair or skin generally are disinfected by the following method:

1. Remove all foreign matter;
2. Spray with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal; and
3. Wipe dry with a clean towel.

43-020 Wax: The owner must ensure that cosmetologists, estheticians, and students/apprentices do not re-melt wax used by a client and ensure that all wax is clean.

1. Hair removal wax must be removed from the machine with a clean applicator.
2. The wax machine must be kept clean.

43-021 Infectious Disease: The owner must observe the following requirements to prevent the transmission of infectious or communicable diseases.

1. No person afflicted with an infectious or communicable disease, which may be transmitted during the performance of the acts of cosmetology or esthetics, is permitted to work or train in an establishment.
2. No client known to have an infectious or communicable disease, which may be transmitted during the performance of the acts of cosmetology or esthetics, is permitted to receive cosmetology or esthetics services.

43-022 Blood Spill Procedures: The owner must ensure that the following occurs when a client or the licensee/student/apprentice is injured during a service and a blood spill occurs. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements.

1. Procedure for client injury:
 - a. Stop service;
 - b. Scrub licensee/student/apprentice hands with liquid soap and water;
 - c. Glove hands of licensee/student/apprentice.
 - d. Change gloves upon contamination, tearing or penetration;
 - e. Clean client's injured area, as necessary;
 - f. Apply antiseptic and/or styptic, as necessary;
 - g. Do not use styptic pencils;
 - h. Cover with a band aid or liquid sealant;
 - i. Clean blood spill area;
 - j. Place all disposable contaminated objects and gloves in a plastic bag;
 - k. Dispose of plastic bag in covered waste receptacle;
 - l. Clean hands with liquid soap and water;
 - m. Clean non-disposable tools with a disinfectant; and
 - n. Return to service.

2. Procedure for cosmetologist, esthetician, or student/apprentice injury:
 - a. Stop service;
 - b. Clean injured area with liquid soap and water;
 - c. Apply antiseptic and/or styptic as necessary;
 - d. Do not use styptic pencils;
 - e. Cover with a band aid or liquid sealant;
 - f. Clean blood spill area, as necessary;
 - g. Place all disposable contaminated objects and gloves in a plastic bag;
 - h. Dispose of plastic bag in covered waste receptacle;
 - i. Clean hands with liquid soap and water;
 - j. Clean non-disposable tools with a disinfectant; and
 - k. Return to service.

43-023 Manicuring and Nail Technology Services: The owner must ensure that all cosmetologists who provide manicuring or nail technology services follow 172 NAC 34.

43-024 Home Services Kits: The owner must ensure that the use of home service kits meets the following requirements. Cosmetologists and estheticians must comply with the following requirements.

1. Home service kits are available for inspection at the salon or at the home of the client receiving services;
2. The kit and all products within the kit are maintained in a sanitary condition;
3. The kit contains items required for the service being provided;
4. Only clean towels/linens are in the kit;
5. Towels/linens stored in the kit are in a clean, dust-proof, and waterproof container;
6. Used/soiled towels/linens are placed in a leak-proof container for transport to the laundering site;
7. Products transported in home services kits are not exposed to excessive cold or heat; and
8. The cosmetologist uses the disinfectant methods described in 172 NAC 43-017 following the service.

43-025 Student Kits: The owner must ensure that student kit items which have been used by a student who has ceased training are not reissued to another student.

43-026 Implements, Supplies, Products, or Activities That Are Not Allowed

43-026.01 The owner must ensure that none of the following are present in the establishment. Cosmetologists and students/apprentices must not use or bring into the establishment any of the following:

1. Sable or fabric neck dusters or brushes (cosmetic brushes are acceptable);
2. Styptic pencils; and
3. Cabinet fumigants.

43-026.02 While in the establishment, the owner, cosmetologists, estheticians, and students/apprentices must not engage in or allow any other person, including clients, to engage in any of the following activities:

1. Smoking on the clinic floor, or any area where salon products and/or chemical supplies are used or stored.
2. Consuming food in any area where cosmetology or esthetics are being taught or performed, except that clients may be allowed to consume food.
3. Storing food in the same area where chemical supplies are used or stored.
4. Using, consuming, serving, or in any manner possessing or distributing intoxicating beverages or controlled substances upon its premises during the hours the establishment is open to the public, or students/apprentices and/or any services are being performed.

43-026.03 The owner, cosmetologists, estheticians, and students/apprentices must not bring or permit animals, including pets, in the establishment except for the following:

1. Animals used as guides for visually impaired or hearing-impaired persons, or service dogs for physically disabled; or
2. Fish in covered aquariums.

43-027 Compliance: The owner must ensure that each manager, licensee, and student/apprentice present in the establishment understands his/her personal responsibility to observe these rules of sanitation and safety at all times that the establishment is open for business to students/apprentices or the public.

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 44 PRACTICE OF BODY ART

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 44 PRACTICE OF BODY ART

44-001 SCOPE AND AUTHORITY: These regulations govern the practice of body art as defined by Neb. Rev. Stat. §§ 71-340 to 71-3,238 and the Uniform Licensing Law.

44-002 DEFINITIONS

Act means Neb. Rev. Stat. §§71-340 to 71-3,238, known as the Nebraska Cosmetology Act.

Attest/Attestation means that the individual declares that all statements on the application and/or petition are true and complete.

Body art means body piercing, branding, permanent color technology, and tattooing.

Body art facility means any room or space or any part thereof where body art is performed or where the business of body art is conducted.

Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human earlobe.

Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Board means the Board of Cosmetology Examiners.

Completed application means an application with all information requested on the application supplied, the signature of the applicant, fees, and all required documentation submitted.

Continuing Competency means to ensure:

1. The maintenance by a credentialed person of knowledge and skills necessary to competently practice body art;
2. The utilization of new techniques based on scientific and clinical advances; and
3. The promotion of research to assure expansive and comprehensive services to the public.

It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. § 71-161.09.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Division means the Credentialing Division of the Department of Health and Human Services Regulation and Licensure.

Guest body artist means a person registered under the Nebraska Cosmetology Act to demonstrate body art products or procedures for the purpose of imparting professional knowledge and information to persons licensed in this state to perform body art or to persons owning or operating a licensed body art facility under the sponsorship of a licensed body art facility or a person licensed in this state to perform body art.

Inactive status means the voluntary termination of the right or privilege to practice as a body artist. The licensee retains the right or privilege to represent himself/herself as having an inactive license.

Jurisdiction means the District of Columbia and any state, territory, or possession of the United States of America.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 44.

Permanent color technology means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or similar entity and includes any trustee, receiver, assignee, or personal representative thereof.

Practitioner means a person who performs any or all of the practices of cosmetology, nail technology, esthetics, or electrology for compensation or who performs any or all of the practices of body art.

Tattoo means the indelible decorative mark, figure, or design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

Tattooing means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for decorative or figurative purposes.

Verified means sworn to before a notary public or equivalent title.

44-003 BODY ARTIST LICENSE: Any person who engages in, or follows, or advertises, or holds oneself out as engaging in or following any of the practices of body art or acts as a practitioner must be licensed. Licensure is required before any person may engage in the full, unsupervised practice of body art, and no person may assume the title of body artist without first being licensed by the Department pursuant to the Nebraska Cosmetology Act. A separate license will be issued for each practice. The criteria for issuance of a license to practice body piercing, branding, permanent color technology, and/or tattooing and the documentation required by the Department and the Board are set forth below.

44-003.01 Licensure to practice body piercing, branding, permanent color technology, and/or tattooing:

44-003.01A Requirements: An applicant for a license must:

1. Be at least 18 years of age;
2. Have a high school diploma or General Education Development Certificate (GED); and
3. Have completed at least 4 hours of training within 3 years immediately prior to making application for a license as a body artist. Such training must include:
 - a. At least 2 hours of Bloodborne Pathogens (disease) training, which includes sanitation, infection control and sterilization. An examination is required as a condition of training completion.
 - (1) The examination must include questions relating to the following:
 - (a) Sanitation;
 - (b) Safety (including emergency procedures);
 - (c) Infection control including cross contamination and barrier control; and
 - (d) Sterilization including use of an autoclave; and
 - b. A basic first aid class which teaches participants how to:
 - (1) Recognize emergency situations;
 - (2) Check the scene and call for help;
 - (3) Avoid bloodborne pathogen exposure;
 - (4) Care for wounds;
 - (5) Manage sudden illnesses; and
 - (6) Minimize shock.

The training may be obtained through any of the following:

1. Nationally accredited organization;
2. Local government sponsored;
3. Hospital sponsored;

4. College sponsored;
5. OSHA (Occupation and Safety Hazards Act) sponsored; or
6. Red Cross.

44-003.01B Application Process: The following must be submitted to the Department:

1. A photocopy of a birth certificate, baptismal certificate, or other equivalent document, which shows proof of attaining the age of 18 years;
2. A photocopy of a high school diploma, general educational development certificate, or equivalent document showing evidence of graduation;
3. Evidence of training as defined in 172 NAC 44-003.01A, item 3;
4. A complete application on Attachment A attached to these regulations and incorporated by this reference, and the applicant's social security number. Only applications which are complete will be considered;
5. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
6. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska after April 1, 2005 and prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska after April 1, 2005 and prior to the application for a license; and
7. The required licensure fee as prescribed in 172 NAC 37.

44-003.02 Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

44-003.03 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 44-012, or such other action as provided in the statutes and

regulations governing the credential.

44-003.04 Department Review: The Department will act within 150 days on all completed applications for licensure.

44-004 GUEST BODY ARTIST REGISTRATION: Registration is required before any person may act as a guest body artist, and no person will assume any title indicative of any of such areas of activity without first being registered. The criteria for issuance of registration and the documentation required by the Department and the Board are set forth below.

44-004.01 Guest Body Artist

44-004.01A Requirements: An applicant for registration as a guest body artist must:

1. Hold current licensure as a body artist in another jurisdiction or have the education or experience relating to the applicable category of continuing competency; and
2. Be under the sponsorship of a licensed Nebraska body art facility or licensed body artist.

44-004.01B Application Process: The following must be submitted to the Department:

1. Verification of sponsorship by a licensed body art facility or licensed body artist;
2. A complete application on Attachment C attached to these regulations and incorporated by this reference. Only applications which are complete will be considered;
3. The registration fee as prescribed in 172 NAC 37; and
4. For applicants licensed in another jurisdiction, a certification that the applicant is currently licensed on Attachment C1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information. This may be submitted to the Department by the applicant or the certifying or licensing agency; or
5. For applicants not licensed in another jurisdiction, documentation of education and experience relating to the applicable category of continuing competency. This may be submitted to the Department by the applicant or the certifying or licensing agency.

44-004.01C Department Review: The Department will act within 150 days upon all completed applications.

44-005 EXPIRATION OF REGISTRATION AS A GUEST BODY ARTIST: Registration is granted for a set period of time and cannot be renewed. The registration will expire 2 years following the initial date of issuance.

44-006 PROCEDURES FOR RENEWAL OF A LICENSE: All body art licenses issued by the Department pursuant to the Act and these regulations expire on March 31st of odd-numbered years.

44-006.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements as specified in 172 NAC 44-009;
2. Pay the renewal fee as prescribed in 172 NAC 37; and
3. Respond to the following questions:
 - a. Has your license in any health care profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the required continuing competency earned within 24 months of the date of expiration or waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition; and
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the licensee is currently on probation.

44-006.02 First Notice: At least 30 days before the expiration date, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

44-006.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;

5. The renewal fee as prescribed in 172 NAC 37;
6. The continued competency required for renewal or waiver of continuing competency; and
7. The option to place the license on inactive status.

44-006.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing the required continuing competency earned within 24 months of the date of expiration or waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

44-006.02C If the licensee wishes to place his/her license on inactive status s/he must request that his/her license be placed on inactive status by submitting to the Department:

1. The renewal notice with a check in the box marked inactive; and
2. The fee of \$25.

44-006.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive status.

44-006.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 44-006.01 that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 44-012 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency or waiver of continuing competency within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 44-008.

44-006.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - (1) That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - (2) To the actual number of days practiced in Nebraska since the expiration

of his/her license;

5. Attestation of completing the required continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

44-006.03B If the licensee wishes to place his/her license on inactive status s/he must request that his/her license be placed on inactive status by submitting to the Department:

1. The renewal notice with a check in the box marked inactive; and
2. The fee of \$25.

44-006.03C The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive status.

44-006.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit proof of documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

44-006.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

44-006.06 When the licensee has given notification to the Department that s/he desires to have the license placed on inactive status upon expiration, 172 NAC 44-006.04 and 44-006.05 will not apply.

44-006.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

44-006.08 An individual who practices after expiration of his/her credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 44-012, or such other action as provided in the statutes and regulations governing the credential.

44-007 EXEMPTION FROM CONTINUING COMPETENCY REQUIREMENTS

44-007.01 Grounds for Exemption: The Department, will exempt a licensee from the continuing competency requirements for any two-year licensing period when a licensee submits documentation that the licensee meets the requirements for exemption.

44-007.01A Circumstances and documentation will include:

1. Any licensee submitting proof that s/he was suffering from a serious or disabling illness or disability that prevented him/her from completing the continuing competency requirements is exempt for the biennium (24 months) if, by the renewal date, s/he is able to practice effectively and to attend continuing competency programs.
 - a. The licensee must submit a statement from a physician stating that the licensee was injured or ill, the duration of the illness or injury, and the recovery period, and that the licensee was unable to attend continuing competency activities during that period.
2. Any licensee submitting proof of service in the regular armed forces of the United States during any part of the immediately preceding biennium (24 months) is exempt for that biennium.
 - a. The licensee must submit official documentation stating dates of service.
3. Any person receiving an initial license in Nebraska during the second year of the biennium (24 months) is exempt from the continuing competency requirement for that biennium only.

44-007.01B Application: Any licensee who seeks an exemption from continuing competency must apply to the Department to be exempt from continuing competency. This application must be made on the renewal form and it must be received by Credentialing Division on or before March 31st of odd-numbered years.

44-007.01C The Department will grant or deny an application for exemption from completion of the continuing competency requirements.

1. When the Department determines to deny an application for exemption of completion of continuing competency requirements, it will send to the applicant's last name and address of record in the Department, a notice setting forth the reasons for the denial determination.
 - a. The applicant has 15 days from the date of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with 184 NAC 1, Rules of Practice and Procedure for the Department.
2. When the Department determines to grant an exemption from completion of continuing competency, the applicant is issued a renewed license if all other requirements are met.

44-007.01D Failure to submit required documentation of approved continuing

competency will constitute grounds for non-renewal of licensure, unless an exemption from continuing competency is granted. Such non-renewal will result in revocation of licensure.

44-007.01E Falsification of any information submitted for renewal of licensure may require the Department to refuse to renew a license. Such refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and in accordance with 184 NAC 1 Rules of Practice and Procedure of the Department.

44-008 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department may revoke a credential when the credential holder fails to meet the renewal requirements.

44-008.01 Revocation for Nonpayment of Renewal Fee or Late Fee, or Failure to Submit Documentation of Continuing Competency within Thirty Days of Expiration of the Credential

44-008.01A When a credential holder fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on inactive status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

44-008.01A1 A post revocation notice will be sent which specifies that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential holder failed to renew the credential or to request that his/her credential be placed on inactive status;
3. The Department has revoked the credential; and
4. The credential holder has a right to request reinstatement of the credential.

44-008.02 Revocation for Failure to Meet Continuing Competency Requirements

44-008.02B When a credential holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

44-008.02B1 The revocation notice for failure to meet continuing competency requirements specifies that:

1. The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive status;
3. The credential has been revoked for failure to meet continuing competency requirements within thirty days after expiration of the credential and that the revocation will become final unless a request

- for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
4. The credential holder has a right to request reinstatement of the credential after revocation.-

44-009 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSEES

44-009.01 General Requirements: Licensees are required on or before March 31st of each odd-numbered year to complete at least 2 hours of Bloodborne Pathogens (disease) training which includes sanitation, infection control and sterilization; and requires an examination as a condition of training completion. The examination must include questions relating to the following:

1. Sanitation;
2. Safety (including emergency procedures);
3. Infection control including cross contamination and barrier control; and
4. Sterilization including use of an autoclave.

44-009.01A The training may be obtained through any of the following:

1. Nationally accredited organization;
2. Local government sponsored;
3. Hospital sponsored;
4. College sponsored;
5. OSHA (Occupation and Safety Hazards Act) sponsored; or
6. Red Cross.

44-009.02 Licensee Responsibilities: The licensee is responsible for maintaining a record of attendance and documentation of attendance at continuing competency programs for 3 years.

44-009.02A Evidence of Program Completion: Presentation of the Certificate of Attendance constitutes evidence that the person complied with all requirements of the program and did complete the program.

44-010 SANCTIONS RELATING TO CONTINUING COMPETENCY

44-010.01 Exemptions: The Department may deny an application for exemption from continuing competency requirements or revoke an exemption on any of the following grounds:

1. Failure to meet the requirements of 172 NAC 44-007; or
2. Fraud or misrepresentation on an application.

44-010.02 False Information: Licensees who submit attestations of continuing competency or applications for exemption of continuing competency which contain false information violate Neb. Rev. Stat. §§ 71-147 and 71-148, and are subject to disciplinary action.

44-010.03 Failure to Meet Continuing Competency Requirements: The Department will revoke the license of any licensee who has failed to satisfy the continuing competency requirements of Neb. Rev. Stat. §§ 71-3,107 through 71-3,117 or these regulations, unless such licensee has been granted a waiver. The Department will provide notices to the licensee of failure to meet continuing competency requirements in accordance with the procedures set forth in Neb. Rev. Stat. §71-110. Upon the failure of the licensee to respond to such notices, the Department will issue an order of revocation. Revocation is final, unless within 30 days after the mailing of the order, the licensee provides written notice to the Department of a desire for hearing. Hearings will be conducted in accordance with Neb. Rev. Stat. § 84-901 to 84-920, and 184 NAC 1, the Rules of Practice and Procedure of the Department.

44-011 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

44-011.01 Eligibility

44-011.01A An individual whose credential has been previously:

1. Placed on inactive status;
2. Revoked for failure to meet the renewal requirements;
3. Suspended or limited for disciplinary reasons; or
4. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

44-011.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

44-011.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 44-012; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

44-011.02 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee and any other applicable fees;

2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

44-011.03 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number;
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential; and
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor,
provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held
by the applicant.
 - f. Verification that the continuing competency requirements for renewal have been met;
 2. The renewal fee and any other applicable fees; and
 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in

Nebraska since s/he last held an active credential.

44-011.03A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 44-012;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

44-011.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

44-011.03C In either event pursuant to 172 NAC 44-011.03A or 44-011.03B, a notice and the opportunity for hearing will be given to the applicant.

44-011.03D The Department will act within 150 days on all completed applications.

44-011.04 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential, or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

44-011.05 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number;
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential; and
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - [a] If the applicant has been convicted of a felony or

- misdemeanor, provide copies of:
- [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Attestation that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees.
 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked, the Department may assess an Administrative Penalty pursuant to 172 NAC 44-012 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 44-011.05B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

44-011.05A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions, or restrictions; or
3. Deny reinstatement.

44-011.05B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstatement of the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 44-012 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstatement of the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 44-012 if warranted; or
 - b. Denial of reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

44-011.06 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

44-011.07 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities

- of the petitioner since the credential was revoked.
- c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number;
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential; and
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.
 - (6) Attestation that the continuing competency requirements for renewal have been met.
 2. The renewal fee, the late fee of \$75 and any other applicable fees; and
 3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 44-012 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 44-001.08F.

44-011.07A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

44-011.07B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

44-011.07C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

44-011.07D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

44-011.07D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

44-011.07E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

44-011.07F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

44-011.07F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement with terms, conditions, or restrictions.

44-011.07F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

44-011.07F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

44-011.07F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

44-011.07F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

44-011.08 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75 and other profession-specific requirements if expressly set by law; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

44-011.09 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was

- suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
- c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number;
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition;
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
 - (6) Any continuing competency activities.
 2. The reinstatement fee of \$75; and
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential;
 - or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked, the Department may assess an Administrative Penalty pursuant to 172 NAC 44-012 in which case a separate notice and opportunity for hearing will be sent to the petitioner.

- (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 44-011.09G.

44-011.09A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

44-011.09B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

44-011.09C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

44-011.09D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

44-011.09E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

44-011.09E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

44-011.09E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

44-011.09F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered

mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

44-011.09G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

44-011.09G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the

- petitioner's credential. The order will be sent by certified mail to the petitioner; and
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

44-011.09G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner; and

- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

44-011.09G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

44-011.10 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

44-011.10A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

44-011.10A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number;
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the

- applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Any continuing competency activities; and
 - g. Attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

44-011.10A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 44-012;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

44-011.10A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

44-011.10A4 In either event pursuant to 172 NAC 44-011.10A2 or 44-011.10A3, a notice and the opportunity for hearing will be given to the applicant.

44-011.10A5 The Department will act within 150 days on all completed applications.

44-011.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

44-011.11A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.

44-011.11B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 44-012.

44-011.12 Credentials Voluntarily Surrendered or Limited Permanently

44-011.12A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

44-012 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

44-012.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

44-012.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property; and
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

44-012.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat.

§§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

44-013 CONSENT: No person may perform body art on or to any person under 18 years of age without prior written consent of the parent or court-appointed guardian of such person. The person giving consent must be present during the procedure.

44-014 ORDINANCES GOVERNING BODY ART: The licensure of persons performing body art or operating a body art facility under the Nebraska Cosmetology Act must not be construed to restrict or prohibit a governing body of a county, city, or village from providing further requirements for performing body art or operating a body art facility within its jurisdiction under ordinances at least as stringent as, or more stringent than, the regulations of the Nebraska Cosmetology Act.

Approved by Attorney General: March 23, 2005
Approved by Governor: March 28, 2005
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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 45 BODY ART FACILITIES

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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 45

TITLE 172 DEPARTMENT PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 45 BODY ART FACILITIES

45-001 SCOPE AND AUTHORITY: These regulations apply to the licensing procedures for body art facilities as defined by Neb. Rev. Stat. §§ 71-340 to 71-3,238 and the Uniform Licensing Law.

45-002 DEFINITIONS

Act means Neb. Rev. Stat. §§71-340 to 71-3,238, known as the Nebraska Cosmetology Act.

Attest/Attestation means that the individual declares that all statements on the application and/or petition are true and complete.

Board means the Board of Cosmetology Examiners.

Body art means body piercing, branding, permanent color technology, and tattooing.

Body art facility means any room or space or any part thereof where body art is performed or where the business of body art is conducted.

Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human earlobe.

Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Completed application means an application with all of the information requested on the application filled in, the signatures of the applicant, fees and all required documentation submitted.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Division means the Credentialing Division of the Department of Health and Human Services Regulation and Licensure.

Minor means any person who has not attained the age of 18 years.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 45.

Permanent color technology means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

Practitioner means a person who performs any or all of the practices of body art.

Tattoo means the indelible decorative mark, figure, or design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

Tattooing means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for decorative or figurative purposes.

Verified means sworn to before a notary public or equivalent title.

45-003 BODY ART FACILITY LICENSE: Any person who wishes to operate a body art facility must obtain a license. The criteria for issuance of a license and the documentation required by the Department are set forth below.

45-003.01 Initial Licensure:

45-003.01A Requirements: An applicant for a license to operate a body art facility must:

1. Meet all requirements specified in 172 NAC 46;
2. Successfully complete an inspection as specified in 172 NAC 45-007.

45-003.01B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment A attached to these regulations and incorporated by this reference;
2. Attestation by the applicant (this does not apply to applications submitted on or before April 1, 2005):
 - a. That s/he has not operated this facility in Nebraska after April 1, 2005 and prior to the application for a license; or
 - b. To the actual number of days operated this facility in Nebraska after April 1, 2005 and prior to the application for a license;
3. A floor plan of the proposed facility, including:

- a. Restroom(s) location;
 - b. Sink locations; and
 - c. Connecting buildings/living space; and
4. The required license fee specified in 172 NAC 37.

45-003.01C Administrative Penalty/Other Action: An individual who operates a facility prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 45-008, or such other action as provided in the statutes and regulations governing the credential.

45-003.01D Department Review: The Department will review the completed application and supporting documentation within 150 days. If the application meets the licensing requirements and complies with the inspection requirements set out in 172 NAC 45-007, the Department will issue a license.

45-003.02 Change in Owner, Name or Location: Each facility license issued will be in effect solely for the owner or owners and premises named thereon and will lapse automatically upon any change of owner or change of location.

The licensee must notify the Department at least 30 days before any change of owner or address, and at least 1 week after a facility is permanently closed, except in emergency circumstances as determined by the Department. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below:

45-003.02A Change in Owner:

1. Application Process: The applicant must meet the requirements as set forth in 172 NAC 45-003.01.
 - a. If the anticipated opening date changes, the owner of the facility must inform the assigned inspector of the new opening date. A facility must not provide any type of body art services prior to licensure.
2. Department Review: The Department will act within 150 days upon all completed applications.

45-003.02B Change in Facility Name:

1. Application Process: The applicant must submit to the Department:
 - a. A complete application on Attachment A attached to these regulations and incorporated by this reference at least 15 days before the proposed name change of the Facility. Only applications which are complete will be considered;
 - b. Indication of the new name of the facility; and
 - c. The required fee for a reissued license as specified in 172 NAC 37.

2. Department Review: The Department will act within 150 days upon all completed applications and will re-issue the license with the change of facility name identified on the license.

45-003.02C Change in Location:

1. Application Process: The applicant must meet the requirements as set forth in 172 NAC 45-003.01.
 - a. If the anticipated opening date changes, the owner of the facility must inform the assigned inspector of the new opening date. An facility must not provide any type of body art services prior to licensure.
2. Department Review: The Department will act within 150 days upon all completed applications.

45-003.03 Procedures for Closing an Facility: When any facility is permanently closed, the holder of the facility license must notify the Department no later than 1 week following closure.

45-004 PROCEDURES FOR RENEWAL OF A LICENSE: All facility licenses issued by the Department under the Act and these regulations expire on March 31st of each odd-numbered year.

45-004.01 Renewal Process: Any licensee who wishes to renew his/her facility license must:

1. Pay the renewal fee as prescribed in 172 NAC 37;
2. Have attained a rating of satisfactory on its most recent operation inspection. The license of any facility not attaining such rating will be placed on inactive status and must not be open to the public until all deficiencies have been corrected; and
3. Cause to be submitted to the Department:
 - a. The renewal notice; and
 - b. The renewal fee.

45-004.02 First Notice: At least 30 days before March 31st of each odd-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of operation as noted in the records of the Department.

45-004.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license; and
5. The renewal fee as prescribed in 172 NAC 37.

45-004.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice; and
2. The renewal fee.

45-004.03 Second Notice: The Department must send to each licensee who fails to renew his/her facility license in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 45-004.02 that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, the license will be revoked as specified in 172 NAC 45-005.

45-004.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. Attestation by the licensee:
 - a. That s/he has not operated the facility in Nebraska since the expiration of its license; or
 - b. To the actual number of days s/he operated the facility in Nebraska since the expiration of its license; and
3. The renewal fee and the additional late fee of \$25.

45-004.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice of hearing and makes proper record of the revocation.

45-004.05 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

45-004.06 Administrative Penalty/Other Action: An individual who operates a facility after the expiration of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 45-008, or such other action as provided in the statutes and regulations governing the credential.

45-005 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:

The Department may revoke a credential when the credential holder fails to meet the renewal requirements.

45-005.01 Revocation for Nonpayment of Renewal Fee or Late Fee within Thirty Days of Expiration of the Credential

45-005.01A When a credential holder fails to pay the required renewal fee and/or to pay a late fee of \$25 within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

45-005.01A1 A post revocation notice will be sent which will specify that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential holder failed to renew the credential; and
3. The Department has revoked the credential.

45-006 REINSTATEMENT: The license of a body art facility that has been revoked for any reason will not be reinstated. An original application in accordance with 172 NAC 45-003 for licensure must be submitted and approved before such facility can reopen for business.

45-007 BODY ART FACILITY INSPECTIONS: All body art facilities will receive an initial and thereafter, a renewal inspection. The criteria for inspection required by the Department and the Board is set forth below:

45-007.01 Initial Inspection – Purpose and Review Time:

45-007.01A For initial applications, the following applies:

1. The applicant must conduct a self-evaluation inspection prior to the proposed opening date of the facility.
2. The Department will conduct an on-site unannounced inspection within 90 days following issuance of an initial facility license in accordance with 172 NAC 45-007.02. The inspections are limited to the following purposes:
 - a. To ascertain whether all body artists working on the premises are properly licensed;
 - b. To ascertain whether the equipment and sanitation requirements in 172 NAC 46 are met;
 - c. To ascertain whether the physical structure requirements in 172 NAC 46 are met; and
 - d. To ascertain whether the duties of the body artist and manager and/or owner in 172 NAC 46 are met.
3. At the conclusion of the inspection, the owner or manager of the facility will receive a copy of the rating form. The form must be promptly displayed, and a written statement of any deficiencies noted.

45-007.02 Initial Department Inspection – Rating:

45-007.02A The inspector will issue a rating of "Satisfactory" on all initial inspections when the facility receives an overall inspection rating of 100%.

45-007.02B The inspector will issue a rating of "Unsatisfactory" on all initial inspections when the facility receives an overall inspection rating of less than 100%.

1. When a body art facility receives a rating of unsatisfactory, it must submit evidence to the department within 15 days providing proof of corrective action taken. A repeat inspection will be conducted within 60 days after the original inspection to determine if corrective action has occurred. The department may assess a fee for each repeat inspection required.
2. If the facility receives an unsatisfactory rating on the repeat inspection, or if evidence is not submitted within 15 days, the license will immediately be placed on inactive status pending action by the department, and the facility may not operate in any manner while its license is inactive.
3. The owner or manager of a facility whose license has been placed on inactive status must appear before the board and the department to show cause why the department should not ask the Attorney General to initiate steps to revoke the license. The department may, as a result of such appearance, grant additional time for corrective action to occur, but the facility may not operate during such time. The facility may not return to operation until it has achieved a satisfactory rating on an inspection.

45-007.02C Failure to permit an inspection for the purposes set out in 172 NAC 45-007.01 and 45-007.03 is grounds for denial of an initial body art facility license or for suspension of a body art facility's existing license.

45-007.03 Renewal (Routine) Inspection – Purpose and Review Time: The Board or its agent will conduct an on-site inspection of each body art facility.

45-007.03A The inspection will be unannounced and it will occur at least every 4 years.

45-007.03B The inspection is limited to the following purposes:

1. To ascertain whether all body artists working on the premises are properly licensed;
2. To ascertain whether the equipment and sanitation requirements in 172 NAC 46 are met;
3. To ascertain whether the physical structure requirements in 172 NAC 46 are met; and
4. To ascertain whether the duties of the body artist and manager and/or owner in 172 NAC 46 are met.

45-007.03C The inspector will record the inspection results on a form provided by the Department.

45-007.04 Routine Inspection – Rating

45-007.04A The inspector will issue a rating of "Satisfactory" on all routine inspections when the facility receives an overall inspection rating of 80%.

45-007.04B The inspector will issue a rating of "Unsatisfactory" on all routine inspections when the facility receives an overall inspection rating of less than 80%.

1. When a body art facility receives a rating of unsatisfactory, it must submit evidence to the department within 15 days providing proof of corrective action taken. A repeat inspection will be conducted within 60 days after the original inspection to determine if corrective action has occurred. The department may assess a fee for each repeat inspection required.
2. If the facility receives an unsatisfactory rating on the repeat inspection, or if evidence is not submitted within 15 days, the license will immediately be placed on inactive status pending action by the department, and the facility may not operate in any manner while its license is inactive.
3. The owner or manager of a facility whose license has been placed on inactive status must appear before the board and the department to show cause why the department should not ask the Attorney General to initiate steps to revoke the license. The department may, as a result of such appearance, grant additional time for corrective action to occur, but the facility may not operate during such time. The facility may not return to operation until it has achieved a satisfactory rating on an inspection.

45-007.04C Failure to permit an inspection for the purposes set out in 172 NAC 45-007.01 and 45-007.03 is grounds for suspension of a body art facility's existing license.

45-008 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

45-008.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;

4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

45-008.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

45-008.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

45-009 CONSENT: No person may perform body art on or to any person under 18 years of age without prior written consent of the parent or court-appointed guardian of such person. The person giving consent must be present during the procedure.

Effective Date
04-02-05

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 45

45-010 ORDINANCES GOVERNING BODY ART: The licensure of persons performing body art or operating a body art facility under the Nebraska Cosmetology Act must not be construed to restrict or prohibit a governing body of a county, city, or village from providing further requirements for performing body art or operating a body art facility within its jurisdiction under ordinances at least as stringent as, or more stringent than, the regulations of the Nebraska Cosmetology Act.

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 46 SAFETY, SANITATION AND STERILIZATION RELATING TO BODY
ART FACILITIES

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NEBRASKA HEALTH AND HUMAN PROCEDURES
REGULATION AND LICENSURE

172 NAC 46

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 46 SAFETY, SANITATION AND STERILIZATION RELATING TO BODY ART
FACILITIES

46-001 SCOPE AND AUTHORITY: These regulations apply to the safe practice of body art within body art facilities defined in Neb. Rev. Stat. §§ 71-340 through 71-3,238. In order to be properly credentialed with the Department of Health and Human Services Regulation and Licensure, the owners of facilities, body branders, body piercers, permanent color technicians, and tattoo artists must comply with these regulations.

46-002 DEFINITIONS

Act means Neb. Rev. Stat. §§71-340 to 71-3,238, known as the Nebraska Cosmetology Act.

Aftercare means written instructions given to the client, about caring for the body art and surrounding area.

Antiseptic means an agent that inhibits the growth and multiplication of, or destroys, disease causing microorganisms on the skin or mucosa.

Aseptic techniques means methods used in body art procedures to prevent contamination of a pierced area by microorganisms.

Autoclave means a sterilization device using steam, heat and pressure which meets the standards of American Society for Mechanical Engineering (ASME).

Body art means body piercing, branding, permanent color technology, and tattooing.

Body art facility means any room or space or any part thereof where body art is performed or where the business of body art is conducted.

Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human earlobe.

Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Client means any person with whom the body artist has an agreement to provide body art.

Closed/covered receptacle, container, bottles and/or drawer means fitting tightly with a lid, door, or shutting of a drawer and may have vents.

Conspicuous place means reception area, clinical area, or any area where visible and accessible to the public.

Disinfection means the destruction of disease causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

Equipment/Furniture means those items needed to operate an facility which are usually considered stationary, for example, chairs, cabinets, sinks, stations, etc.

Electrical appliances means portable electric powered appliances.

Gloves a covering for the hand having separate sections for each finger that is single use, sanitary, and is disposable medical grade.

Infectious waste means:

1. Blood and body fluids in a liquid or semi-liquid state;
2. Items contaminated with blood or body fluids, which, if compressed or disturbed, may release liquid or semi-liquid blood or body fluids;
3. Sharps which have been used in performing body art.
4. Other waste which contains pathogenic microbial agents or other biologically active materials in sufficient concentrations that exposure to the waste directly or indirectly creates a significant risk of disease.

Instrument/tool means hand pieces, needles, and other tools that may come in contact with a customer's body or be exposed to body fluids during body art procedures.

Minor means any person who has not attained the age of 18 years.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 46.

Permanent color technology means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

Practitioner means a person who performs any or all of the practices of body art.

Sanitize means the application of reducing microorganisms to a safe level.

Sharps means any rigid object used for the purpose of puncturing, lacerating, or penetrating the skin or mucosa.

Sharps container means a rigid, leak and puncture resistant, and labeled container, manufactured for the containment of sharps. Labeling must include the international biohazard symbol.

Single use means products or items that are intended for one-time, one-person use and are disposed of after use on each customer.

Sterilization means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

Supplies/materials means cotton balls/cotton pads or other similar items.

Tattoo means the indelible decorative mark, figure, or design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

Tattooing means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for decorative or figurative purposes.

46-003 DOCUMENTS POSTED: The owner must ensure that the following documents are posted in each facility in a conspicuous place:

1. A copy of the regulations governing sanitation and safety for the information and guidance of all persons employed and for the general public;
2. The most recent inspection rating sheet for the information of the general public and employees; and
3. The most current licensure renewal card for each person practicing within the facility, for public viewing (photocopies are not acceptable).
4. Pamphlets or literature explaining body art aftercare.

46-004 CLIENT RECORDS: In order for the licensee to properly assess the client's condition for receiving body art procedures and not violate the client's rights or confidential medical information, the licensee must obtain the following information from the client:

1. Name, Address, Date of Birth, and ID # (drivers license, military ID, State ID, passport, etc) of client;
2. Any known allergies; and
3. Any condition that may affect/hamper healing.

In addition to the information collected from the client, the client record must include:

1. The name of the body artist who performed the procedure;
2. The date of the procedure;
3. The location of the procedure on the client's body;

4. A description of the type of procedure provided;
5. Consent form for all persons under 18 years of age.

46-004.01 Record Keeping and Retention Schedule: The owner must ensure that the following records are kept and retained as follows and available to the inspector:

1. Photo identification of each person providing body art procedures;
2. Client records, which must be maintained in a confidential manner, and be retained for 3 years; and
3. Consent forms for persons under the age of 18 which must be kept for 5 years.

46-005 PHYSICAL STRUCTURE: The owner must ensure that the facility is well lighted, well ventilated and kept in a clean, orderly, sanitary condition at all times.

46-005.01 Surfaces: All walls, floors and all procedure surfaces in rooms or areas where body art procedures are performed must be smooth, washable, and in good repair.

46.005.02 Address: All body art facilities must have a dedicated physical address.

46-005.03 Entrance and Exits: All body art facilities must have:

1. An entrance leading directly into the establishment; and
2. No direct opening between an establishment and any building or portion of a building used as living or sleeping quarters or as a food, liquor, or tobacco establishments.

Exception: Body art facilities located in a nail technology salon or cosmetology salon may share an entrance into the entire establishment, however, the body art facility must be separated by at least 6-foot high walls.

The owner must ensure that the openings to the outside are protected by means of self-closing doors or screened/closed windows to prevent the presence of insects, vermin, or rodents.

46.005.04 Privacy Area: Each facility must have an area that can be screened from public view for customers requesting privacy or for all genitalia body art procedures.

46-006 VENTILATION: The owner must ensure that a consistent fresh air supply is provided to the facility. In addition, fans may be provided to circulate the air within the facility. S/he may do so by using one or more of the following:

1. A ventilation system which is in good, working condition; or
2. A furnace or air conditioner in which:
 - a. The air distribution system filters are cleaned or replaced annually or more often if needed to avoid restriction of airflow; and

- b. The furnace fan setting is placed on “continuous” or “on” setting at all times the facility is occupied to ensure fresh air is coming into the facility;
or
3. Open windows/doors with a screen and a fan to provide and circulate fresh outside air.

46-007 WATER

43.007.01 The owner must ensure that the facility has a supply of hot and cold running water in sufficient quantities to conduct the facility in a sanitary manner, specifically that:

1. In cities or villages in which an authorized public water supply is available, the facility must be connected to the public water supply and comply with state law, city or village ordinances, and local health authority requirements.

46-007.02 The owner must ensure that wastewater is disposed of through a system that carries it away from buildings and is either:

1. A public sewer connection; or
2. A private disposal system that complies with state law, city or village ordinances, and local health authority requirements.

46-008 SAFETY: The owner must maintain the facility in a safe condition. S/he must ensure that:

1. Floors, floor coverings, walls, woodwork, ceilings, furniture, fixtures and equipment are clean and in good repair;
2. Floors are free of unsafe objects and slippery or uneven surfaces;
3. Doors, stairways, passageways, aisles or other means of exit provide safe and adequate access;
4. Electrical appliances or apparatus are clean and have no worn or bare wiring to avoid fires, shocks, and electrocution; and
5. Water or product spills on the floor are removed immediately and the floor is dried to avoid falls.

46-009 REQUIRED EQUIPMENT/FURNISHINGS: The owner must ensure that each facility has the following equipment/furnishings and that the equipment/furnishings are in good repair, cleanable and in a sanitary condition at all times.

1. Hand washing sink, which is clean and includes:
 - a. Hot and cold running water that passes through a mixing type of faucet;
 - b. Liquid soap;
 - c. Single-use paper towels; and
 - d. Waste receptacle.

2. Equipment washing sink for employee use only, which is clean and includes:
 - a. Hot and cold running water that passes through a mixing type of faucet;
 - b. Liquid soap;
 - c. Single-use paper towels; and
 - d. Waste receptacle.

Facilities which use all disposable equipment are not required to have an equipment washing sink.
3. Sharps Container: Contaminated sharps must be disposed of in approved sharps container in a manner to ensure the prevention of cross-contamination.
4. Autoclave(s): Autoclave(s) used for sterilizing metal tools/equipment must be clean and the owner must ensure that the employee follows manufacture's direction for use.
 - a. If all disposable equipment/instruments are used, an autoclave is not required.
 - b. If ultrasonic cleaning units or dry heat sterilizers are used, they must not be the only means of sterilization and must be used and maintained in accord with manufacturer's recommendations and be kept clean and sanitary.
5. Waste Receptacle: At least 1 waste receptacle for each workstation, which is covered and has a plastic liner.
6. Work Tables or Counters: All work table or counters must be smooth, non-absorbent, non-porous and cleanable. Each workstation must include a surface cleaner (germicidal).
7. Disposable Ink Caps: Ink caps are required if providing tattooing and permanent color technology procedures.
 - a. If the licensee uses an ink cap holder, the holder must be smooth, non-absorbent, non-porous and sterilizable.
8. First Aid Kit
9. Customer Chair(s) and Body Artist(s) Chairs: The chairs must be made of cleanable material; cloth chairs are not acceptable.
10. Storage Cabinets or Containers: Clean cabinets/containers for storing clean and sterilized instruments and supplies.
11. Barriers: A barrier must be used to ensure the prevention of cross-contamination.

46-010 FURNITURE: The owner must ensure that all furniture is in good repair and in a sanitary condition at all times.

46-011 STORAGE: The owner must ensure that storage within the facility meets the following requirements. Body artists must comply with the following requirements.

1. Flammable and combustible chemicals are stored away from potential sources of ignition such as an open flame or an electrical device.
2. All chemicals are stored in closed bottles or containers and labeled.
3. No cleaning/sterilizing products are stored:
 - a. Where food is kept;
 - b. In the restroom, unless in a locked cabinet; or
 - c. With single use supplies.
4. Storage units:
 - a. Cabinets, drawers, containers used for storage of supplies, instruments and towels are clean.
5. Supplies:
 - a. Unused supplies are stored in a clean, enclosed container or drawer;
 - b. Used/soiled disposable supplies are discarded immediately in a clean, closed waste receptacle with a plastic liner; and
 - c. Labeled accordingly.
6. Instrument Storage:
 - a. Instruments that have been used on a client or soiled in any manner are placed in a properly labeled covered receptacle until sterilized; and
 - b. Sterilized instruments are individually packed and stored in a clean closed container or drawer until used.
7. Contaminated sharps must be stored and disposed of in approved sharps container to ensure the prevention of cross-contamination.
8. Infectious Waste must be:
 - a. Handled and stored so that human exposure is prevented; and
 - b. Discarded in double-lined plastic bags in covered waste receptacle or in an approved "red" bag marked with the international biohazard symbol and stored safely until transported by a licensed infectious waste hauler to an appropriate treatment or disposal facility.

46-012 TOWELS/LINENS: The owner must ensure that the use of towels/linens in the facility meets the following requirements and body artists must comply with the following requirements.

46-012.01 Used/Soiled Towel/Linen Storage:

1. Cloth linens (such as capes) are deposited in a closed receptacle after use;
2. Used/soiled cloth linens are not used again until properly laundered and sanitized; and
3. Only disposable single-use towels are used for body art services and must be discarded in a closed waste receptacle, with a plastic liner, immediately following each body art service.

46-012.02 Laundry: Cloth towels are laundered either:

1. By regular commercial laundering; or
2. By a noncommercial laundering process which includes immersion in water at 140 degrees Fahrenheit for not less than 15 minutes during the washing or rinsing operation.

46-012.03 Clean Towel/Linen Storage:

1. All clean linens are stored in a clean, enclosed cabinet or container until used.
2. All disposable towels are stored in a clean, enclosed cabinet or container until used.

46-013 PRODUCTS: The owner must ensure that the use of products in the facility meets the following requirements and body artists must comply with the following requirements.

1. All liquids, cosmetics, creams, gels, pastes, powders, and other products are kept in clean, closed containers;
2. Original product bottles and containers have an original manufacturer label;
3. When only a portion of the product is to be used on a client, the product is removed from the container by a spatula, scoop, spoon, or dropper so that the product does not come in direct contact with the client and to assure the remaining product is not contaminated; and
4. If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container is labeled to identify the product.

46-014 SUPPLIES, PRODUCTS AND MATERIALS: The owner must ensure that the use of supplies, products and materials in the facility meets the following requirements and body artists must comply with the following requirements.

1. Supplies and implements which come in direct contact with a client and cannot be disinfected, such as cotton pads, cotton balls, pads, "Q-tips", sponges, bandages, tapes, surgical dressing and other similar items, are disposed of in a covered waste receptacle, with a plastic liner, immediately after use.
2. All products applied to the skin, including stencils must be single-use and disposable. Acetate stencils will not be allowed for re-use if sanitization procedures are not performed between uses. Petroleum jellies, soaps, and other products used in the application of stencils must be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of

the original container and its contents. The gauze must be used only once and then discarded.

46-015 PIGMENTS, COLORS AND DYES: Pigments, colors and dyes used from stock solutions for each customer must be placed in a single-use receptacle and the receptacle and remaining solution must be discarded and disposed of after each use.

46-016 RASH OR INFECTION:

1. No licensee affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, rash or acute respiratory infection may work in any capacity in which there is likelihood that they could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
2. A client must not receive body art procedures on areas which are irritated/inflamed or have moles, rash, broken skin, or infection.

46-017 LICENSEE HAND CLEANLINESS: Every body artist must wash his/her hands thoroughly with liquid soap and water and dry them with single use disposable towels, before and after serving each client and at any time during the procedure when the hands may become contaminated.

46-018 GLOVES: The owner must ensure that each licensee, wears gloves in accordance with the following:

1. When performing body art procedures. The licensee must wash his/her hands prior to gloving. Gloves must be disposed after the completion of each procedure on each customer. If gloves become torn, punctured or otherwise contaminated, licensees must remove and dispose of the gloves, wash his/her hands with liquid soap and water, and dry with a disposable towel, and then put on a new pair of gloves before resuming the body art procedure.

46-019 SINGLE USE ITEMS: Single use items must not be used on more than one client for any reason. After use, all single use needles, razors, razor blades and other sharps must be immediately disposed of in a waste receptacle.

46-020 PREPARATION AND CARE OF THE BODY ART AREA: Before performing body art procedures, the immediate area of the skin or mucous membrane where the body art procedure is to be placed must be washed with liquid soap and water. Only single-use disposable towels, washing pads, blotters, etc may be used. An antiseptic mouth rinse must be used prior to any oral procedure. The towel, pad, and/or blotter, must be discarded after a single use.

1. Shaving: If shaving is necessary, single-use disposable razors or safety razors with single-service blades or clippers. Single-service must be discarded after

each use and the reusable holder must be autoclaved after use. Clippers must be cleaned and sprayed with a disinfectant solution after each client. Following shaving, the skin and surrounding area must be washed with liquid soap and water. The washing pad must be discarded after a single use.

2. Oral body art: Before an oral body art procedure may be performed, the customer must rinse his/her mouth with an antiseptic mouthwash which is provided to the customer in single use cups.
3. Blood Flow: In the event of blood flow, all products used to check the flow of blood or to absorb blood must be sanitary and single-use products.

46-021 STERILIZATION: The owner must ensure that after use by each customer, all non-disposable instruments and procedure work surfaced are cleaned and sterilized with a sanitizer that has a demonstrated tuberculocidal activity, as indicated by the product label.

1. Jewelry used for new body piercing must be sterilized with an autoclave or chem-clave. Acrylic jewelry can not be used for a new piercing. Jewelry used in healed body piercing does not have to be sterilized, but must be used according to product label.
2. Clippers must be disinfected with a liquid chemical sterilant after each use.
3. All non-disposable instruments used for body art must be cleansed and sterilized after each use. Autoclave or chem-clave sterilization must be conducted for the cycle of time and corresponding operating pressure recommended by the manufacturer of the autoclave. Sanitizers used in the cleaning process must have demonstrated tuberculocidal activity, as indicated by the product label and be registered with the U.S. Environmental Protection Agency.
4. Instruments that are to be autoclaved within the facility must be packed in single-use paper pre-packs or other containers designed for sterilizing instruments and marked with the expiration date. The expiration date must not exceed 90 days from the date autoclaved.
5. All sterilized instruments must remain stored in sterilized packages until just prior to performing a body art procedure. Where several instruments are sterilized at the same time in the same package, such as in a single use setup, once the container is opened any instrument not used immediately in a procedure must be resterilized.
6. Every batch of sterilized equipment must be monitored for sterilization by use of a heat sensitive indicator that is capable of indicating approximate time and temperature achieved.

46-022 AUTOCLAVE STANDARDS

1. Spore destruction tests must be performed to prove that autoclaves are capable

of attaining the minimum operating standards. Spore tests must be performed at a minimum of once for each autoclave every 30 days and must be verified through an independent laboratory or tester. A tester must be qualified by the CDC, American Dental Association (ADA), or FDA. A record of all spore tests must be maintained for 2 years, prior to April 1, 2005, the facility must have tests available for the past 60 days.

- a. An autoclave which has received a positive spore test must be immediately removed from service. Prior to using, the owner must ensure that there is evidence of 1 negative spore test. If the autoclave requires repair work, it can not be utilized until it has received 2 negative spore tests.
2. Autoclaves must be cleaned and serviced at the frequency recommended by the manufacturer. A copy of the manufacturers cleaning and servicing instructions must be maintained in the facility.

46-023 DISINFECTANT SOLUTION STORAGE AND CLEANLINESS: The owner must ensure that the use of disinfectant solution in the facility is used and maintained in accordance with the manufactures directions and body artists must comply with the following requirements.

1. Keep the disinfectant solution covered at all times; and
2. Change the disinfectant solution whenever visibly cloudy or dirty.

46-024 IMPLEMENTS, SUPPLIES, PRODUCTS, OR ACTIVITIES THAT ARE NOT ALLOWED

46-024.01 While in the facility, the owner or body artists must not engage in or allow any other person, to engage in any of the following activities:

1. Consuming food or beverages in any area where body art is performed, except that clients may be allowed to consume food or non-intoxicating drinks.
2. Storing food in the same area where chemical supplies are used or stored.
3. Using, consuming, serving, or in any manner possessing or distributing intoxicating beverages or controlled substances upon its premises during the hours the facility is open to the public and/or any procedures are being performed.
4. Performing body art when s/he is under the influence of alcohol, narcotic drugs, stimulants, or depressants or on any person who appears to be under the influence of alcohol, narcotic drugs, stimulants, or depressants.

46-024.02 The owner and body artist must not bring or permit animals, including pets, in the facility except for the following:

1. Animals used as guides for visually impaired or hearing-impaired persons, or service dogs for physically disabled; or
2. Fish in covered aquariums.

46-025 CONSENT: No person may perform body art on or to any person under 18 years of age without prior written consent of the parent or court-appointed guardian of such person. The person giving consent must be present during the procedure.

1. The person providing the body art service must retain a copy of the consent for 5 years.
2. The body artists retains the right to refuse body art procedures to a person under 18 years of age.

46-026 COMPLIANCE: The owner must ensure that each licensee present in the facility understands his/her personal responsibility to observe these rules of sanitation and safety at all times that the facility is open for business to the public and must ensure procedures are in place to ensure the prevention of cross-contamination.

46-027 ORDINANCES GOVERNING BODY ART: The licensure of persons performing body art or operating a body art facility under the Nebraska Cosmetology Act must not be construed to restrict or prohibit a governing body of a county, city, or village from providing further requirements for performing body art or operating a body art facility within its jurisdiction under ordinances at least as stringent as, or more stringent than, the regulations of the Nebraska Cosmetology Act.

Approved by the Attorney General: March 11, 2005
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TITLE 172
NEBRASKA ADMINISTRATIVE CODE
Chapter 53
RULES AND REGULATIONS GOVERNING THE PERFORMANCE OF DUTIES
BY LICENSED DENTAL HYGIENISTS AND OTHER DENTAL AUXILIARIES

001 DEFINITIONS. As used in these Rules and Regulations unless the context otherwise requires:

001.01 Board shall mean the Board of Examiners in Dentistry of the State of Nebraska.

001.02 Dental hygienist shall mean a dental auxiliary who is licensed by the Department of Health to perform, under the supervision of a licensed dentist, the scaling and polishing of teeth in the oral prophylaxis procedures prescribed in these rules and regulations.

001.03 Department shall mean the Department of Health of the State of Nebraska.

001.04 Other dental auxiliary shall mean any person who assists a licensed dentist in carrying out the basic duties of a dental office but who is not licensed as a dental hygienist.

001.05 General supervision shall mean the directing of the authorized activities of a dental hygienist or other dental auxiliary by a licensed dentist and shall not be construed to require the physical presence of the supervisor when directing such activities.

001.06 Indirect supervision shall mean supervision when the licensed dentist authorizes the procedure to be performed by a dental hygienist or dental auxiliary and the licensed dentist is physically present on the premises when such procedure is being performed by the dental auxiliary.

002 SCOPE OF PRACTICE OF DENTAL HYGIENE

002.01 Authorized Services. A licensed dental hygienist, by virtue of training and professional status, is hereby authorized to perform, under the supervision of a licensed dentist, the following clinical services:

002.01A Scaling of teeth, including subgingival regions and root planing with hand and ultrasonic instruments.

002.01B Polishing of all exposed tooth surfaces with motor driven and hand instruments, in the oral prophylaxis procedure.

002.01C Chemical Curettage.

002.01D All of the duties that any other dental auxiliary is authorized to perform.

The licensed dentist assumes full responsibility for all the aforementioned procedures delegated to a licensed dental hygienist, under his supervision.

002.02 Other Prohibited Services. A licensed dental hygienist or any other dental auxiliary, under no circumstances, is ever authorized to perform, whether under the supervision of a licensed dentist or not, the following clinical services:

002.02A Diagnosis and treatment planning.

002.02B Surgery on hard or soft tissue.

002.02C Administering of local or general anesthetics.

002.02D Any other irreversible dental procedure or procedures which require the professional judgment and skill of a licensed dentist.

002.03 Prohibited Services. Except in accredited colleges of dentistry, licensed dental hygienists and other dental auxiliaries are prohibited from performing the following clinical services:

002.03A Any intra-oral procedure which would lead to the fabrication of any prosthesis.

002.03B Placing or contouring of a final restoration.

003 SCOPE OF PRACTICE OF DENTAL AUXILIARIES.

003.01 Authorized Services. A licensed dentist is authorized to delegate to a dental auxiliary, other than a dental hygienist, only those procedures for which the dentist exercises supervision, for which he assumes full responsibility and which do not conflict with these regulations. The phrase "other than a dental hygienist" is used in this section of Subsection 003 to specifically differentiate between "dental hygienist" and any other dental auxiliary, and for no other purpose.

003.02 Prohibited Services. Other dental auxiliaries are not authorized to perform any of the clinical services which may be performed by a licensed dental hygienist pursuant to Subsections 002.01A and 002.01C or any of the clinical services which are prohibited to dental auxiliaries pursuant to Subsection 002.03.

004 DENTAL ROENTGENOGRAMS. Any licensed dental hygienist, by virtue of training and professional ability, is hereby authorized, under the supervision of a licensed dentist, to take dental roentgenograms. Any other dental auxiliary is hereby authorized under the supervision of a licensed dentist to take dental roentgenograms, but they shall not be authorized to do so, on or after January 1, 1973, unless they have satisfactorily completed a course in dental radiology approved by the Board and the Department.

005 CORONAL POLISHING. A dental auxiliary is hereby authorized, under the indirect supervision of a licensed dentist, to polish all exposed tooth surfaces with a rubber cup or brush driven by a conventional slow-speed hand piece, but they shall not be authorized to do so on or after January 1, 1997, unless they have met the following requirements:

005.01 Attained the age of eighteen (18); and

005.02 One of the following:

005.02A Have graduated from a dental assisting training program which is accredited by the American Dental Association (ADA) and includes a coronal polishing course; or

005.02B Have one (1) year (a minimum of 1500 hours) of clinical work experience as a dental assistant and have successfully completed a course in polishing procedures which is approved by the Board and Department.

005.03 Criteria for Approval of a Course on Polishing Procedures for Dental Assistants.

005.03A The institution administering the course on coronal polishing must be accredited by the American Dental Association;

005.03B The course must have a minimum of fourteen (14) contact hours of instruction to include ten (10) hours of didactic instruction and four (4) hours of clinical participation;

005.03C The didactic course content must include, but not be limited to, instruction in dental anatomy and physiology of the hard and soft tissues of the deciduous and permanent oral facial complex, the correct management of the hard and soft tissues during coronal polishing procedures, demonstration of appropriate patient and operator positions, instruction in universal precautions and infection control, laboratory exercises utilizing manikins or extracted teeth, indications and contraindications for coronal polishing, armamentarium, and principles of polishing agents;

005.03D The clinical course content must include, but not be limited to, four (4) contact hours of rotary coronal polishing on a minimum of two (2) patients;

005.03E The course shall include written and clinical examinations for the purpose of determining competency of the dental assistant, demonstrating the necessary skills and proficiency to perform coronal polishing; and

005.03F Upon successful completion of the course, the sponsoring institution will provide the attendee with written verification of competency.

006 VIOLATIONS. Any violation of these Rules and Regulations by a licensed dentist or by a licensed dental hygienist shall be considered "unprofessional conduct" and due cause for revocation or suspension of a license to practice dentistry or dental hygiene.

SOURCE: Section 71-193.14

Sections 005 Added

Approved by the Attorney General on January 9, 1998

Approved by the Governor on February 27, 1998

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TITLE 172
NEBRASKA DEPARTMENT OF HEALTH /PROFESSIONAL AND OCCUPATIONAL
LICENSES /REGULATIONS

Chapter 54
REGULATIONS GOVERNING PROFESSIONAL ADVERTISING BY DENTISTS

001 MODE OF ADVERTISING. In the interest of protecting the public health and safety, a dentist shall not use or participate in the use of any form of public communication or advertising containing a false, fraudulent, misleading, or deceptive statement or claim. Advertising about unlawful activities or advertising testimonials is prohibited. No dentist shall hold himself, his staff, his service, or method of delivery of dental services as being superior to that of other dental practitioners. Any statement used in an advertisement must be subject to measurement or verification.

002 SCOPE OF ADVERTISING.

002.01 Name. All advertising used in connection with a place in which dentistry is practiced must contain the name or names of all persons who operate the place of practice. Person can be an individual, partnership or corporation. The names of all dentists practicing in a dental office must be posted prominently at the entrance to the dental office. In the case of a professional corporation, all advertising about the dental office must contain the name of the professional corporation and the names of all dentists who are share holders in the corporation who practice dentistry in the dental office. In all cases the use of a dentist's name shall mean the use of the full name of the dentist as it appears on his or her license and on his or her license renewal certificate.

002.02 Fee Information. Any offer in an advertisement by a dentist containing reference to a specific fee or price or a specific schedule of fees or prices must state the period of time during which the offer at such specified fee or price remains open for acceptance. If the Advertisement does not state the period of time during which the offer at such specified fee or price remains open for acceptance, then the offer shall be open for acceptance for a reason able period of time which shall not be less than twenty (20) calendar days.

002.03 Referral of Patient. Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services is prohibited.

002.04 Media. A dentist shall not compensate or give any thing of value to representatives of the press, radio, television, or other communication media in anticipation of or in return for professional publicity unless the fact of compensation is made known in such publicity; this provision does not apply to professional advertising on those media paid for by the dentist.

003 ROUTINE DENTAL SERVICES. A "routine dental service" is a dental service which can be performed at a set price or which can be performed within a stated period of time. A dentist who advertises a routine dental service at a set price must perform such service at the stated set price. A dentist who advertises a routine dental service to be performed within a stated period of time must perform such service within that period of time. A set price for routine dental services is a fixed amount (the price advertised), for which the dentist providing the advertising will perform all necessary component services in order to complete the routine dental service with competence and within the standard of expertise pertaining in the dental profession.

004 SPECIALITY DENTAL PRACTICES. A dentist cannot advertise a specialty he or she does not have competence. Whenever a dentist advertises a speciality for which he or she does not have current certification from, or eligibility for

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current certification from, a specialty board, recognized by "the American Dental Association appropriate to that area of dental practice, the dentist must disclose that fact in the advertisement.

005 NONCOMPLIANCE. Noncompliance by a licensed dentist with these Regulations Governing Professional Advertising by Dentists or the use of a false, fraudulent, misleading, or deceptive statement or claim in an advertisement by a licensed dentist shall be considered unprofessional conduct and shall subject the licensee to suspension or revocation of his or her license to practice dentistry, or to other disciplinary action against the license of the dentist.

SOURCE: Nebraska Revised Statutes Sections 71-147, 71-147(10), 71-148, and 71-169

TITLE 172
NEBRASKA DEPARTMENT OF HEALTH/PROFESSIONAL AND OCCUPATIONAL
LICENSES/REGULATIONS

Chapter 55
DENTAL OFFICE MAINTENANCE

001 SPACE. In order to maintain conditions of safety and sanitation, each dental office shall contain adequate space for a clinical area, reception room, supply room, toilet facilities, and facilities to maintain sanitary conditions.

002 WATER. Each dental office must be supplied with hot and cold running water in such quantities as necessary to conduct such a dental office in a sanitary manner. Connections shall be made to a municipal or other public water supply system whenever feasible.

003 MAINTENANCE. Dental offices shall be kept well lighted, well ventilated, and in a sanitary condition. All windows, walls, floors, areas used by patients, and all furniture and fixtures must be kept clean at all times.

004 TOWELS. All linen, towels and similar material must be strictly single service use for each patient. If reusable, no towel or linen that has been used on one patient shall be used on another patient until it has first been properly laundered.

005 EQUIPMENT, INSTRUMENTS AND IMPLEMENTS. All dental machines and equipment utilizing electrical components must be properly and safety installed, operated and maintained. All dental instruments and implements which come in contact with patients must be sanitized and any instruments coming in contact with a-patient's bodily secretions shall be sterilized before use on any other patient.

SOURCE: Nebraska Revised Statutes Section 71-185.01(2)

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 56 LICENSURE OF DENTISTS AND DENTAL HYGIENISTS

56-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of dentists and dental hygienists under Neb. Rev. Stat. §§ 38-1101 to 38-1151 and the Uniform Credentialing Act (UCA).

56-002 DEFINITIONS:

Accredited dental hygiene program means a program that is accredited by the American Dental Association Commission on Dental Accreditation, which is an agency recognized by the United States Department of Education as an accrediting body, that is within a school or college approved by the board, and that requires a dental hygiene curriculum of not less than two academic years.

Accredited school or college of dentistry means a school or college approved by the board and accredited by the American Dental Association Commission on Dental Accreditation, which is an agency recognized by the United States Department of Education as an accrediting body.

Act means Neb. Rev. Stat. §§ 38-1101 to 38-1151, known as the Dentistry Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Analgesia means the diminution or elimination of pain in the conscious patient.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Dentistry.

Certificate means an authorization issued by the Department that gives a person the right to use a protected title that only a person who has met specific requirements may use.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing education means the offering of instruction or information to licensees for the purpose of maintaining skills necessary to the safe and competent practice of Dentistry or Dental Hygiene. The continuing education may be offered under such names as "scientific school", "clinic", "forum", "lecture", "course of study" or "educational seminar". In order for continuing education to be recognized for licensure renewal, it must meet the criteria for acceptance established by the Board.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;

2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

General anesthesia means a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and produced by a pharmacologic or nonpharmacologic method or a combination thereof.

Hour means a period of 50 minutes of formal instruction, otherwise known as a "contact hour."

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

Incident means a definite, distinct occurrence; an event which results in death or physical or mental injury requiring hospitalization of a patient which occurs in the outpatient facilities of a dentist during, or as a direct result of, inhalation analgesia (nitrous oxide), parenteral sedation, or general anesthesia.

Inhalation analgesia (nitrous oxide) means the administration of nitrous oxide and oxygen to diminish or eliminate pain in a conscious patient.

Lapsed status means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice dentistry or dental hygiene.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is

absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 56.

Official transcript means issued by and under the original seal of the educational institution.

Parenteral means administration other than through the digestive tract, including, but not limited to, intravenous administration.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Practical examination means an examination, which evaluates candidates of their psychomotor skills.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Sedation means a depressed level of consciousness in which the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command is retained and which is produced by a pharmacologic or nonpharmacologic method or a combination thereof.

Served in the regular armed forces has the same meaning as "military service" in these regulations.

56-003 INITIAL CREDENTIAL

56-003.01 Dentist Licensure:

56-003.01A Qualifications: To receive a credential to practice dentistry, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, be a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Graduate from an accredited school or college of Dentistry with a Doctorate of Dental Surgery (DDS) or Doctorate of Dental Medicine (DMD);
4. Experience: Applicants that are applying on the basis of licensure in another state must have engaged in the active practice of dentistry or in a dental residency or graduate training program for at least three years

and one of the three years must have been within the three years immediately preceding the date of application;

5. Examination:
 - a. Pass the licensure examination Part I and Part II given by the Joint Commission on National Board Dental Examinations (JCNBDE) with a score of 75 or above on each part of this examination;
 - b. Pass the practical examination administered by the Central Regional Dental Testing Service or any other regional or state practical examination that the Board of Dentistry determines is comparable to such practical examination with the score determined by the testing agency. Scores from any of the licensure practical examinations approved by the Board are accepted for up to five years from the date the examination was passed. If an applicant has failed on two occasion to pass a regional or state practical examination, that applicant is required to complete a remedial course in clinical dentistry approved by the Board before the Department will consider the results of the third examination as valid; and
 - c. Pass a jurisprudence examination that relates to the statutes that govern dentistry and dental hygiene with an average score of 75% or above.

56-003.02 Dental Hygienist Licensure:

56-003.02A Qualifications: To receive a credential to practice dental hygiene, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, be a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Graduate from an accredited dental hygiene program;
4. Experience: Applicants that are applying on the basis of licensure in another state must have engaged in the active practice of dental hygiene or in a dental hygiene residency or graduate training program for at least three years and one of the three years must have been within the three years immediately preceding the date of application;
5. Examination:
 - a. Pass the licensure examination given by the Joint Commission on National Board Dental Hygiene Examinations (JCNBDHE) with a score of 75 or above;
 - b. Pass the practical examination administered by the Central Regional Dental Testing Service or any other regional or state practical examination that the Board of Dentistry determines is

comparable to such practical examination with the score determined by the testing agency. Scores from any of the licensure practical examinations approved by the Board are accepted for up to five years from the date the examination was passed. If an applicant has failed on two occasion to pass a regional or state practical examination, that applicant is required to complete a remedial course in clinical dental hygiene approved by the Board before the Department will consider the results of the third examination as valid; and

- c. Pass a jurisprudence examination that relates to the statutes that govern dentistry and dental hygiene with an average score of 75% or above.

56-003.03 Temporary Dentist Licensure:

56-003.03A Qualifications: To receive a credential to practice dentistry under the auspices of the postgraduate or residency program in which s/he is enrolled, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, be a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Graduate from an accredited school or college of Dentistry with a Doctorate of Dental Surgery (DDS) or Doctorate of Dental Medicine (DMD);
4. Postgraduate or Residency Program: Be enrolled in a postgraduate or residency program in dentistry;
5. Experience: Be licensed in another state, territory, or District of Columbia under conditions which the Board finds comparable to the requirements of the State of Nebraska for obtaining a license to practice dentistry;
6. Examination: Pass the licensure examination Part I and Part II given by the Joint Commission on National Board Dental Examinations (JCNBDE) with a score of 75 or above on each part of this examination.

56-003.04 Application: To apply for a credential to practice dentistry/dental hygiene, the individual must submit a complete application to the Department. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional); and
 - (8) The applicant's fax number (optional);
- b. Indication as to whether the applicant is applying for a:
- (1) Dentist license based examination or licensure in another state;
 - (2) Dental Hygienist license based on examination or licensure in another state; or
 - (3) Temporary dentist license;
- c. Education: Name and location of the applicant's accredited dental/dental hygiene program or postgraduate/residency program;
- d. Indicate whether or not the applicant holds a Federal Drug Enforcement Administration (DEA) Registration (dentists only);
- e. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced dentistry/dental hygiene in Nebraska before submitting the application; or
 - (2) If s/he has practiced dentistry/dental hygiene in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;
- f. Answer the following questions either yes or no. For any yes answers, explain the circumstances and outcome. Applicant will be notified of any additional documentation which is required by the Board/Department:

Section I

- (1) Have you ever had any disciplinary or adverse action imposed against a professional credential or permit in any state or jurisdiction?
- (2) Have you ever voluntarily surrendered or voluntarily limited in any way a credential or permit issued to you by a licensing or disciplinary authority?
- (3) Have you ever been requested to appear before any licensing agency?
- (4) Have you ever been notified of any charges, complaints or other actions filed against you by any licensing or disciplinary authority?
- (5) Are you aware of any pending disciplinary actions or of any on-going investigations of a complaint against your credential or permit in any jurisdiction?

- (6) Have you ever been asked to and/or permitted to withdraw an application for a credential or permit with any Board or jurisdiction?
- (7) Has any state or jurisdiction refused to issue, refused to renew or denied you a credential or permit to practice?

Section II

- (1) Are you currently, or have you ever been, addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (2) Within the past 5 years, have you received any therapy/treatment or been admitted to any hospital or other in-patient care facility for reasons relating to your use/abuse of alcohol, narcotics, barbiturates, or other drugs?
- (3) Do you currently, or have you ever had, any physical, mental, or emotional condition which impaired, or does impair your ability to practice your health care profession safely and competently?
- (4) Within the past 5 years, has any licensing agency or credentialing organization initiated any inquiry into your physical, mental or emotional health?

Section III

- (1) Have you ever been restricted, suspended, terminated, requested to voluntarily resign, placed on probation, counseled, received a warning or been subject to any remedial or disciplinary action during dental/dental hygiene school or postgraduate training?
- (2) Have you ever had hospital or institutional privileges denied, reduced, restricted, suspended, revoked, terminated or placed on probation?
- (3) Have you ever voluntarily resigned or suspended hospital or institutional privileges while under investigation from a hospital, clinic, institution, or other dental/dental hygiene related employment?
- (4) Have you ever been notified that any action against your hospital or institutional privileges is pending or proposed?
- (5) Have you ever been allowed to withdraw your staff privileges from a hospital or institution?
- (6) Have you ever been subject to staff disciplinary action or non-renewal of an employment contract?

Section IV

- (1) Have you ever been convicted of a felony?
- (2) Have you ever been convicted of a misdemeanor?
- (3) Have you ever been notified of any charges, complaints or other actions filed against you by any criminal prosecution authority?

Section V (dentists only)

- (1) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (2) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (3) Have you ever surrendered your state or federal controlled substances registration?
- (4) Have you ever had your state or federal controlled substances registration restricted or disciplined in any way?

Section VI

- (1) Have you ever been notified of any professional liability claim that resulted in an adverse judgment, settlement, or award, including settlements made prior to suit in which the patient releases any professional liability claim against the applicant?
- (2) Are you aware of any professional liability claims currently pending against you?

g. Attestation: The applicant must attest that:

- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete;
- (3) S/he is of good character;
- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 56-007 or if an act(s) was committed, provide an explanation of all such acts; and
- (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat § 38-129:
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act; and

2. Documentation: The applicant must submit the following documentation with the application:

- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;

- (6) Military identification; or
- (7) Other similar documentation;
- b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds or has held a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
 - (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);

- (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
 - e. If applying for a dentist license, a dental hygienist license, or a temporary dentist license, official transcript showing graduation from an accredited dental/dental hygiene program sent directly from the educational institution;
 - f. If applying for a temporary dentist license, proof of enrollment in a postgraduate/residency program sent directly from the program;
 - g. If applying for a dentist license or a temporary dentist license, official documentation of the scores obtained on Parts I and II of the NBDE licensure examination sent directly from Joint Commission on National Dental Examinations;
 - h. If applying for a dental hygienist license, official documentation of the scores obtained on the NBDHE licensure examination sent directly from Joint Commission on National Dental Examinations; and
 - i. If applying for a dentist license or a dental hygienist license, official documentation of the scores obtained on a regional or state practical examination sent directly from the testing agency.
3. **Fee:** The applicant must submit the required license fee along with the application and all required documentation.

56-003.04A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

56-003.04B Remedial Course Application: To apply for approval of a remedial course, the individual must submit a complete application to the Department. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);

- (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - (9) Name of the institution providing the remedial course;
 - (10) Description of the subject matter of the remedial course. Subject matter for the remedial course must cover the content included in the section(s) of the regional or state practical examination that the applicant failed;
 - (11) Name, title, and qualifications (vitae or resume) of faculty member providing the remedial instruction;
 - (12) Number of hours of didactic instruction; number of hours of clinical instruction; number of hours under direct supervision, and total number of hours in the remedial course. The remedial course must include at least 15 hours of didactic and clinical instruction, of which 10 hours must be under the direct supervision of the faculty member providing the remedial instruction;
 - (13) Written plan of evaluation for the remedial course, indicating the method of evaluation;
 - (14) Statement bearing the school seal from the institution providing the remedial instruction indicating that the remedial course meets the criteria for approval; and
 - (15) Signature of the faculty member providing the remediation and date; and
- b. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character; and
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 56-007 or if an act(s) was committed, provide an explanation of all such acts.

56-003.04C Criminal Background Checks: An applicant for a dental and a temporary dental credential must:

1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;

2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked "Reason Fingerprinted", print "Credential";
3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 56-003.04C1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

56-003.04C1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department at www.hhs.state.ne.us/crl/backgroundchecks.pdf.

56-003.04C2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

56-003.05 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

56-003.06 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 56-007, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

56-003.07 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to being reviewed by the Board will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

56-003.08 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 56-012 or such other action as provided in the statutes and regulations governing the credential.

56-003.09 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

56-003.10 Address Information: Each dentist, dental hygienist, or temporary dentist credential holder must notify the Department of any change to the address of record.

56-003.11 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation in the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

56-004 DENTAL LOCUM TENENS: A dental locum tenens may be issued by the Department, with the recommendation of the Board, to an individual who holds an active license to practice dentistry in another state when circumstances indicate a need for the issuance of a dental locum tenens in the State of Nebraska.

A Dental locum tenens may be issued for a period not to exceed 90 days in any 12-month period.

56-004.01 Circumstances for which a dental locum tenens license may be issued:

1. The unavailability of a Nebraska dentist due to vacation, sickness or hospitalization or other similar leaves of absence;
2. A public health emergency in the State of Nebraska such as one arising from incidents of widespread disease, natural or manmade disaster or similar causes; or
3. For volunteer dental services such as the Mission of Mercy Program.

56-004.02 To receive a dental locum tenens, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, be a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Holds an active license to practice dentistry in another state if the requirements regarding education and examination for licensure in that state are equal to or exceed the requirements regarding education and examination for licensure in Nebraska.

56-004.03 Application: To apply for a dental locum tenens, the individual must submit a complete application to the Department. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);

b. Education: Name and location of the applicant's accredited dental program;

c. Indicate whether or not the applicant holds a Federal Drug Enforcement Administration (DEA) Registration;

d. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced dentistry in Nebraska before submitting the application; or
- (2) If s/he has practiced dentistry in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and

e. Answer the following questions either yes or no. For any yes answers, explain the circumstances and outcome. Applicant will be notified of any additional documentation which is required by the Board/Department:

Section I

- (1) Have you ever had any disciplinary or adverse action imposed against a professional credential or permit in any state or jurisdiction?
- (2) Have you ever voluntarily surrendered or voluntarily limited in any way a credential or permit issued to you by a licensing or disciplinary authority?
- (3) Have you ever been requested to appear before any licensing agency?
- (4) Have you ever been notified of any charges, complaints or other actions filed against you by any licensing or disciplinary authority?

- (5) Are you aware of any pending disciplinary actions or of any on-going investigations of a complaint against your credential or permit in any jurisdiction?
- (6) Have you ever been asked to and/or permitted to withdraw an application for licensure or permit with any Board or jurisdiction?
- (7) Has any state or jurisdiction refused to issue, refused to renew or denied you a credential or permit to practice?

Section II

- (1) Are you currently, or have you ever been, addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (2) Within the past 5 years, have you received any therapy/treatment or been admitted to any hospital or other in-patient care facility for reasons relating to your use/abuse of alcohol, narcotics, barbiturates, or other drugs?
- (3) Do you currently, or have you ever had, any physical, mental, or emotional condition which impaired, or does impair your ability to practice your health care profession safely and competently?
- (4) Within the past 5 years, has any licensing agency or credentialing organization initiated any inquiry into your physical, mental or emotional health.

Section III

- (1) Have you ever been restricted, suspended, terminated, requested to voluntarily resign, placed on probation, counseled, received a warning or been subject to any remedial or disciplinary action during dental school or postgraduate training?
- (2) Have you ever had hospital or institutional privileges denied, reduced, restricted, suspended, revoked, terminated or placed on probation?
- (3) Have you ever voluntarily resigned or suspended hospital or institutional privileges while under investigation from a hospital, clinic, institution, or other dental related employment?
- (4) Have you ever been notified that any action against your hospital or institutional privileges is pending or proposed?
- (5) Have you ever been allowed to withdraw your staff privileges from a hospital or institution?
- (6) Have you ever been subject to staff disciplinary action or non-renewal of an employment contract?

Section IV

- (1) Have you ever been convicted of a felony?
- (2) Have you ever been convicted of a misdemeanor?

- (3) Have you ever been notified of any charges, complaints or other actions filed against you by any criminal prosecution authority?

Section V

- (1) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (2) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (3) Have you ever surrendered your state or federal controlled substances registration?
- (4) Have you ever had your state or federal controlled substances registration restricted or disciplined in any way?

Section VI

- (1) Have you ever been notified of any professional liability claim that resulted in an adverse judgment, settlement, or award, including settlements made prior to suit in which the patient releases any professional liability claim against the applicant?
- (2) Are you aware of any professional liability claims currently pending against you?

f. Attestation: The applicant must attest that:

- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete;
- (3) S/he is of good character;
- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 56-007 or if an act(s) was committed, provide an explanation of all such acts; and
- (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. § 38-129:
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Documentation: The applicant must submit the following documentation with the application:

- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;

- (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
- b. Evidence of good character, including:
- (1) Other Credential Information: If the applicant holds or has held a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department.
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Certification of license from a state in which applicant holds a current license;
- f. Official Documentation requesting the issuance of a dental locum tenens permit for the purpose of replacing a dentist who will be unavailable for a specific period of time, or for volunteer dental services such as the Mission of Mercy Program.

56-005 CONTINUING COMPETENCY REQUIREMENTS: Each dentist and dental hygienist holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 56-006.03 and 56-006.04. Individuals that hold a temporary dentist license are not required to comply with continuing competency requirements. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

56-005.01 On or before the expiration date of the credential, the credential holder must complete 30 hours of acceptable continuing competency requirements in the 24-month preceding the expiration date of the credential.

56-005.02 Acceptable Continuing Competency Activities:

- 1. State and National meetings, i.e., a meeting of the local, state, or American Dental Association, local, state, or American Dental Hygiene Association, National Dental Association, and/or educational programs sponsored by the recognized specialty groups in dentistry of the American Dental Association;
 - a. One hour credit for each hour of attendance, and only the portion of such meeting which meets the definition of continuing education can be accepted for credit.

2. District meetings and Study Clubs. In order to qualify as a Study Club in the State of Nebraska, the Dental Study Club must have a charter or constitution, officers, and consist of at least four licensed members. The Study Club must submit a list of meetings, including length, date and topics by March 1 of the reporting period;
 - a. One hour credit for each hour of attendance, and only the portion of such meeting which meets the definition of continuing education can be accepted for credit.
3. Formal education courses which relate directly to the practice of dentistry or dental hygiene;
 - a. One hour credit for each hour of attendance.
4. University-sponsored courses in continuing education in dentistry or dental hygiene;
 - a. One hour credit for each hour of attendance.
5. Licensee acting as table clinician or lecturer to licensed dentists, licensed dental hygienists or dental auxiliaries or licensee attending table clinics;
 - a. One hour credit for each hour of presentation or attendance; allowable credit limited to 2 hours within a 24-month renewal period.
6. Home study with testing mechanism. If there is not a testing mechanism or certificate of completion, the licensee must submit an abstract or resume of the material covered to the Board of Dentistry. The abstract or resume must be written by only the licensee and will be reviewed by members of the Board's subcommittee on continuing education;
 - a. One hour credit for each hour of study; allowable credit limited to 10 hours within a 24-month renewal period.
7. Direct clinical observation;
 - a. One hour credit for each hour of direct clinical observation; allowable credit limited to 2 hours within a 24-month renewal period.
8. Initial Cardiopulmonary Resuscitation (CPR) certification or CPR re-certification;
 - a. One hour credit for each hour of study;
 - b. Allowable credit limited to 10 hours for initial CPR certification within a 24-month renewal period; and
 - c. Allowable credit limited to 4 hours for CPR re-certification within a 24-month renewal period.

9. Faculty Overseeing Student Dental Clinics;
 - a. One hour credit for each hour of faculty overseeing student dental clinics; allowable credit limited to 5 hours within a 24-month renewal period.
10. Dental Public Health continuing education;
 - a. One hour credit for each hour of dental public health continuing education; allowable credit limited to 5 hours within a 24-month renewal period.
11. Ethics and Professionalism continuing education;
 - a. One hour credit for each hour of ethics and professionalism continuing education; allowable credit limited to 5 hours within a 24-month renewal period.
12. Well-being (Substance Abuse) continuing education;
 - a. One hour credit for each hour of well-being (substance abuse) continuing education; allowable credit limited to 5 hours within a 24-month renewal period.

56-005.03 Dental Locum Tenens are not required to meet continuing competency requirements.

56-006 RENEWAL: An individual who wants to renew his/her dental or dental hygiene credential must request renewal as specified in 172 NAC 56-006.02. All dental or dental hygiene credentials issued by the Department will expire on March 1 of each odd-numbered year. Except temporary dental license will expire one year from the date of issuance, or when the postgraduate/residency program ends.

56-006.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal of dentist and dental hygienist credentials only;
5. Proof of enrollment in a postgraduate/residency program for renewal of temporary dentist credentials,
6. The amount of the renewal fee; and
7. Information on how to request renewal and how to place a credential on inactive status.

56-006.02 Renewal Procedures: The request for renewal may be submitted in person, by mail, or by Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an

application from the Department or construct an application that must contain the following information:

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have not a SSN and an A# or I-94 number, and if so, must report both.
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number:
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 56-005 or has requested a waiver if s/he meets the requirements of 172 NAC 56-006.03 and/or 56-006.04;
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against the credential as specified in 172 NAC 56-007 or if an act(s) was committed, provide an explanation of all such acts;
 - (4) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, is a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For purposes of Neb. Rev. Stat. § 38-129, is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Nonimmigrant: Evidence of lawful presence, and/or immigration status may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);

- b. Other Credential Information: If the applicant holds or has held a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential;
- c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
- d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
- e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department;
- f. Temporary dentists are required to provide proof of enrollment in a postgraduate/residency program;

3. The renewal fee according to 172 NAC 2.

56-006.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service, as defined in 172 NAC 56-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

- 1. Military identification proving that s/he is in active service;
- 2. Military orders; or
- 3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

56-006.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

56-006.05 Audit Of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

56-006.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

56-006.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

56-006.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes documentation of attendance at or participation in acceptable continuing education activities;

56-006.05D The Department will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

56-006.05E The Department will notify the credential holder upon satisfactory completion of the audit.

56-006.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

56-006.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

56-006.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

56-006.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

56-006.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

56-006.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

56-006.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

56-006.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

56-006.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice dentistry or dental hygiene terminates.

56-006.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 56-012 or such other action as provided in the statutes and regulations governing the credential.

56-006.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of dentistry or dental hygiene after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 56-011.

56-006.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status, and continuing competency is not required.

56-006.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

56-006.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of dentistry or dental hygiene, but may represent him/herself as having an inactive credential.

56-006.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential

returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 56-011.

56-007 DISCIPLINARY ACTIONS

56-007.01 Grounds for Action Against a Credential or Permit: A credential or permit to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential or permit;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant, credential holder or permit holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential or permit by a person not credentialed or permitted to do so;
11. Having had his/her credential or permit denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 56-007.05 by another state or jurisdiction based upon acts by the applicant, credential holder or permit holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;

16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential or permit holder is not credentialed or permitted to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential or permit;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 56-007.02; or
24. Violation of the Automated Medication Systems Act.

56-007.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant, credential holder or permit holder or his/her office or clinic;
 - b. With a landlord of the applicant, credential holder or permit holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant, credential holder or permit holder based on a retirement plan or separation agreement;
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed or permitted;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant, credential holder or permit holder. Sexual misconduct in the practice of dentistry means violation of the dentist-patient relationship through which the dentist uses said relationship to

- induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient;
- a. Committing any act which would constitute sexual battery upon a patient;
 - b. Intentionally touching the sexual body parts of a patient, i.e. the breast and/or genitals; and
 - c. Fondling, hugging, or kissing a patient;
10. Failure to keep and maintain adequate records of treatment or service;
 11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
 12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency;
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
 13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
 14. Failure to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, test results, and X-rays, if taken;
 15. Exercising influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the applicant, credential holder or permit holder or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
 16. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin;
 17. Prescribing, selling, administering, or distributing, any drug legally classified as a prescription drug other than for proper dental purposes;
 18. Prescribing, selling, administering, distributing, or giving a drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to him/herself or a family member, unless the family member is being treated as a patient for a dental condition;
 19. Use of nitrous oxide or inhalants for other than dental purposes;
 20. Giving fraudulent prescriptions;
 21. Maintaining fraudulent controlled substance records;
 22. Treating or diagnosing medical problems not specifically related to the dental treatment;
 23. Failure to furnish the Board, its investigators or representatives, information legally requested by the Board;
 24. Failure to submit a written report to the Board that a death of a patient occurred in the credential or permit holder's office regardless of the circumstances of such death;
 25. Allowing dental hygienists or assistants to provide dental services contrary to the Board's rules and regulations;

26. Any departure from or failure to conform to the ethics of the dental profession, which ethics are found in the American Dental Association's Principles of Ethics and Code of Professional Conduct and Advisory Opinions;
27. Misrepresentation of material facts in applying for or procuring a renewal of a credential or permit;
28. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
29. Violation of provisions of the Dentistry Practice Act relating to the administration of general anesthesia, parenteral sedation, or inhalation analgesia (nitrous oxide);
30. Prescribing drugs to an individual the dentist has never met based solely on answers to questions provided by the internet, telephone, or FAX or without first establishing a proper dentist-patient relationship. A proper dentist-patient relationship requires that the dentist make an informed dental judgment upon examination, diagnosis, and formulation of a treatment plan and that arrangements exist to insure availability of the dentist or dentist coverage for follow-up patient care;
31. Disruptive behavior as manifested by a dentist's or dental hygienist's aberrant behavior which interferes with patient care or could reasonably be expected to interfere with patient care, including, but not limited to, the following:
 - a. Outbursts of rage or violent behavior;
 - b. Throwing of instruments, records, or objects;
 - c. Insulting comments to a patient, patient's family, dental staff, or other healthcare professionals;
 - d. Striking or assaulting a patient, patient's family, dental staff or healthcare professionals;
 - e. Poor hygiene;
32. Any violations of other Nebraska regulations governing the profession.

56-007.03 Temporary Suspension or Limitation

56-007.03A The Department may temporarily suspend or temporarily limit any credential or permit issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 56-007.01 for the revocation, suspension, or limitation of the credential or permit and that the credential or permit holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential or permit.

56-007.03B A continuance of the hearing will be granted by the Department upon the written request of the credential or permit holder, and the continuance must not exceed 30 days unless waived by the credential or permit holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential or permit holder.

56-007.03C A temporary suspension or temporary limitation of a credential or permit under 172 NAC 56-007.03 will not be in effect for more than 90 days unless waived by the credential or permit holder. If a decision is not reached

within 90 days, the credential or permit will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or permit or otherwise discipline the credential or permit holder.

56-007.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential or permit holders of any disciplinary action to be imposed and the time and place of the hearing.

56-007.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential or permit, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

56-007.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 56-007.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential or permit holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential or permit holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential or permit holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential or permit holder's choice if the credential or permit holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential or permit holder.

56-008 INITIAL ANESTHESIA PERMIT: A licensed dentist must obtain an anesthesia permit before administering general anesthesia, parenteral sedation or inhalation analgesia (nitrous oxide) for each location where anesthesia administration is performed.

56-008.01 Anesthesia Permits:

56-008.01A General Anesthesia Qualifications: To receive a permit to administer general anesthesia, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, be a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education:
 - a. Completed one year of advanced training in anesthesiology and related academic subjects beyond dental school level in an approved training program;
 - b. Is a diplomat of the American Board of Oral and Maxillofacial Surgery (ABOMS);
 - c. Is educationally qualified to apply for examination by the ABOMS; or
 - d. Is a fellow of the American Dental Society of Anesthesiology; and
4. Licensure: Holds an active dental license;
5. Certification: Have a current valid certification in basic life-support skills from the American Red Cross or the American Heart Association, or equivalent;
6. Facility: Maintains a properly equipped facility for the administration of general anesthesia; and
7. Inspection: Successfully complete an on-site inspection performed by the Board or its representative(s) who holds a dental license and has anesthesia training beyond inhalation analgesia (nitrous oxide).

56-008.01B Parenteral Sedation Qualifications: To receive a permit to administer parenteral sedation, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, be a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Is certified as competent in the administration of parenteral sedation and in handling all related emergencies by a university, teaching hospital, or other facility approved by the Board; and
4. Licensure: Holds an active dental license;
5. Certification: Have a current valid certification in basic life-support skills from the American Red Cross or the American Heart Association, or equivalent;
6. Facility: Maintains a properly equipped facility for the administration of parenteral sedation; and

7. Inspection: Successfully complete an on-site inspection performed by the Board or its representative(s) who hold a dental license and has anesthesia training beyond inhalation analgesia (nitrous oxide).

56-008.01C Inhalation Analgesia (Nitrous Oxide) Qualifications: To receive a permit to administer inhalation analgesia (nitrous oxide), an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, be a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Has completed an approved two-day training course or equivalent training which may be acquired while studying at an accredited school or college of dentistry; and
4. Licensure: Holds an active dental license;
5. Certification: Have a current valid certification in basic life-support skills from the American Red Cross or the American Heart Association, or equivalent; and
6. Facility: Maintains a properly equipped facility for the administration of inhalation analgesia (nitrous oxide).

56-008.02 Application: To apply for a permit to administer anesthesia the individual must submit a complete application to the Department. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#) or
 - (c) Form I-94 (Arrival-Departure Record);Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);

- (9) Indication that the applicant is applying for a general anesthesia, a parenteral sedation, or an inhalation analgesia (nitrous oxide) permit;
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not administered anesthesia in Nebraska before submitting the application; or
 - (2) If s/he has administered anesthesia in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a permit and the name and location of practice; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 56-007 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. § 38-129:
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds or has held a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and an official copy of the disciplinary action(s), including charges and disposition;

- (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of the actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department; and
- c. Evidence that the applicant is:
 - (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;

- (13) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record);
- e. If applying for a permit to administer general anesthesia, one of the following as evidence of education:
 - (1) Affidavit from an approved training program showing completion of one year of advanced training in anesthesiology and related subjects;
 - (2) Official documentation stating that the applicant is a diplomat of the ABOMS;
 - (3) Official documentation stating that the applicant has met the educational requirements for eligibility to take the examination by the ABOMS; or
 - (4) Letter of verification that the applicant is a fellow in general anesthesia of the American Dental Society of Anesthesiology;
- f. If applying for a permit to administer parenteral sedation, evidence that the applicant is certified as competent in the administration of parenteral sedation and in handling all related emergencies by a university, teaching hospital, or other facility approved by the Board;
- g. If applying for a permit to administer inhalation analgesia (nitrous oxide), evidence that the applicant has completed an approved two-day training course in administering inhalation analgesia (nitrous oxide) or equivalent acquired while studying at an accredited school/college of dentistry; and
- h. Copy of the applicant’s current valid certification in basic life-support from the American Red Cross or the American Heart Association or equivalent;
- i. If applying for a permit to administer general anesthesia, evidence of meeting the following facility requirements for the administration of general anesthesia:
 - (1) An operating room large enough to accommodate a patient on a table or in an operating chair, and to permit an operating team consisting of at least three individuals to freely move about the patient;
 - (2) An operating table or chair which permits a patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the management of cardiopulmonary resuscitation;
 - (3) A lighting system which permits evaluation of a patient's skin and mucosal color and a backup lighting system which is battery powered or on-site generator powered and of intensity to permit completion of any operation underway at the time of general power failure;
 - (4) Suction equipment which permits aspiration of the oral and pharyngeal cavities. A backup suction device must also be available;
 - (5) An oxygen delivery system with full face masks and connectors that is capable of delivering 100% oxygen to a patient under positive pressure, together with a backup system;
 - (6) A recovery area that has oxygen, lighting, suction, and electrical outlets. The recovery area can be the operating room. The

- patient must be able to be observed by a member of the staff at all times during the recovery period;
- (7) The following ancillary equipment:
 - (a) Laryngoscope complete with selection of blades and spare batteries and bulb;
 - (b) Endotracheal tubes and connectors;
 - (c) Oral airways;
 - (d) Tonsillar or pharyngeal type suction tip adaptable to all office outlets;
 - (e) Endotracheal tube forceps;
 - (f) Sphygmomanometer and stethoscope;
 - (g) Equipment for the establishment of an intravenous infusion;
 - (h) Pulse oximeter; and
 - (i) Cardiac oscilloscope.
 - (8) Patient records which include the following:
 - (a) Medical history and physical evaluation records;
 - (b) Anesthesia records, which must include blood pressure, pulse, drugs and amounts administered, length of the procedure, and any complications of anesthesia; and
 - (c) Documentation verifying that any person who assists a dentist in the administration of general anesthesia has a current certification in basic life support by either the American Red Cross or the American Heart Association or the equivalent.
 - (9) Drugs with current dates available for treatment of the following medical emergencies:
 - (a) Laryngospasm;
 - (b) Bronchospasm;
 - (c) Nausea, vomiting, and aspiration of foreign material under anesthesia;
 - (d) Angina Pectoris;
 - (e) Myocardial Infarction;
 - (f) Hypotension;
 - (g) Hypertension;
 - (h) Cardiac Arrest;
 - (i) Allergic Reaction;
 - (j) Convulsions;
 - (k) Respiratory Arrest;
 - (l) Narcotic overdose; or
 - (m) Benzodiazepine overdose; or
 - j. If applying for a permit to administer parenteral sedation, evidence of meeting the following facility requirements for the administration of parenteral sedation:
 - (1) An operating room large enough to accommodate a patient on a table or in an operating chair, and to permit an operating team consisting of at least two individuals to freely move about the patient;
 - (2) An operating table or chair which permits a patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the management of cardiopulmonary resuscitation;

- (3) A lighting system which permits evaluation of a patient's skin and mucosal color and a backup lighting system which is battery powered or an on-site generator powered and of intensity to permit completion of any operation underway at the time of a general power failure;
- (4) Suction equipment which permits aspiration of the oral and pharyngeal cavities. A backup suction device must also be available;
- (5) An oxygen delivery system with full face masks and connectors that is capable of delivering 100% oxygen to a patient under positive pressure, together with a backup system;
- (6) A recovery area that has oxygen, adequate lighting, suction, and electrical outlets. The recovery area can be the operating room. The patient must be able to be observed by a member of the staff at all times during the recovery period.
- (7) The following ancillary equipment:
 - (a) Oral pharyngeal airway(s);
 - (b) Tonsillar or pharyngeal suction tips and adapters;
 - (c) Sphygmomanometer and stethoscope;
 - (d) Equipment for establishment of intravenous infusion; and
 - (e) Pulse oximeter.
- (8) Patient records which include the following:
 - (a) Medical history and physical evaluation records;
 - (b) Sedation anesthesia records, which must include blood pressure, pulse, drugs and amounts administered, length of the procedure, any complications of sedation, and names of those assisting the dentist; and
 - (c) Documentation verifying that any person who assists a dentist in the administration of parenteral sedation has a current certification in basic life support by either the American Red Cross or the American Heart Association or the equivalent.
- (9) Drugs with current dates available for treatment of at least the following medical emergencies:
 - (a) Airway obstructions;
 - (b) Allergic reactions;
 - (c) Hypotension; and
 - (d) Respiratory arrest;
 - (e) Narcotic overdose; or
 - (f) Benzodiazepine overdose; or
- k. If applying for a permit to administer inhalation analgesia (nitrous oxide), evidence of meeting the following facility requirements for the administration of inhalation analgesia (nitrous oxide):
 - (1) An operating room large enough to accommodate a patient on a table or in an operating chair, and to permit an operating team consisting of at least two individuals to attend to the patient.
 - (2) Suction equipment which permits aspiration of the oral and pharyngeal cavities.
 - (3) An oxygen delivery system with full face masks and connectors that is capable of delivering 100% oxygen to a patient under positive pressure, together with a backup system.

- (4) A nitrous oxide delivery system, with connectors, that is capable of delivering nitrous oxide (with oxygen) to a patient within 0% to 80% output range.
 - (5) A recovery area that has oxygen, lighting, suction and electrical outlets. The recovery area can be the operating room. The patient must be able to be observed by a member of the staff at all times during the recovery period.
 - (6) The following ancillary equipment:
 - (a) Oral pharyngeal airway(s); and
 - (b) Sphygmomanometer and stethoscope;
 - (7) Patient records which include the following:
 - (a) Medical history prior to the administration of inhalation analgesia (nitrous oxide) and physical evaluation records;
 - (b) Inhalation analgesia (nitrous oxide) records, which must include any complications of inhalation analgesia (nitrous oxide) and name(s) of those assisting the dentist; and
 - (c) Documentation verifying that any person who assists a dentist in the administration of inhalation analgesia (nitrous oxide) has a current certification in basic life support by either the American Red Cross or the American Heart Association or the equivalent.
 - (8) Drugs with current dates available for treatment of medical emergencies; and
- I. For applicants applying for a permit to administer general anesthesia or parenteral sedation, proof of successful completion of the inspection, which includes review of the following routine procedures performed:
 - (1) Preoperative evaluation of patients;
 - (2) Management of medical risk patients;
 - (3) Technique and method of administration of general anesthesia and/or parenteral sedation;
 - (4) Monitoring of patients during procedures and recovery;
 - (5) Recordkeeping;
 - (6) Use and qualification of auxiliary personnel; and
 - (a) When the applicant employs a person who will assist in the administration of general anesthesia, such assistant must be currently certified in basic life support by either the American Red Cross or the American Heart Association or the equivalent. Documentation of such certification must be provided during the time of the on-site evaluation.
 - (7) Management of emergencies; and
3. Fee: The applicant must submit the required permit fee along with the application and all required documentation.

56-008.02A Prorated Fee: When a permit will expire within 180 days after its initial issuance date and the initial permit fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial permit fee, whichever is greater, for the initial permit, and the permit will be valid until the next subsequent renewal date.

56-008.02B Inspections:

1. The Board or its representative(s) who holds a dental license and has anesthesia training beyond inhalation analgesia (nitrous oxide) must conduct an initial on-site inspection of all practice locations of a dentist applying for a permit to administer general anesthesia or parenteral sedation, prior to issuance of the permit; and
2. Subsequent on-site inspections are required at least every five years from the date of issuance for each general anesthesia and parenteral sedation permit.

56-008.03 Department Review: The Department will act within 150 days upon all completed applications for an initial anesthesia permit.

56-008.04 Denial of Initial Permit: If an applicant for an initial anesthesia permit does not meet all of the requirements for a permit, the Department will deny issuance of a permit. If the applicant is found to have committed any act which would be grounds for denial of a permit as listed in 172 NAC 56-007, the Department may deny issuance of a permit. To deny a permit, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

56-008.05 Withdrawn Applications: An applicant for a permit who withdraws his/her application or whose application is rejected by the Department prior to on-site evaluation will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

56-008.06 Practice Prior to Permit: An individual who practices prior to issuance of a permit is subject to assessment of an administrative penalty under 172 NAC 56-012 or such other action as provided in the statutes and regulations governing the permit.

56-008.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

56-008.08 Address Information: Each anesthesia permit holder must notify the Department of any change to the address of record and complete an application pursuant to 172 NAC 56-008.02.

56-008.09 Each general anesthesia permit holder is also certified to administer parenteral sedation and inhalation analgesia (nitrous oxide).

56-008.10 Each parenteral sedation permit holder is also certified to administer inhalation analgesia (nitrous oxide).

56-008.11 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation in the English language. The

translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

56-009 ANESTHESIA RENEWAL: An individual who wants to renew his/her anesthesia permit must request renewal as specified in 172 NAC 56-009.02. All anesthesia permits issued by the Department will expire on March 1 of each odd-numbered year.

56-009.01 Renewal Notice: At least 30 days before the expiration of a permit, the Department will notify each permit holder at the last known address of record. The renewal notice will include:

1. The type of permit;
2. The permit number;
3. The expiration date;
4. The requirements for maintaining a properly equipped facility;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a permit on inactive status.

56-009.02 Renewal Procedures: The request for renewal may be submitted in person, by mail, or by Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address;
 - (3) The applicant's fax number;
 - c. Must attest that s/he:
 - (1) Has met the requirement for maintaining a properly equipped facility and that any person assisting the dentist in the administration of anesthesia has maintained basic life-support certification;
 - (2) Has read the application or has had the application read to him/her;
 - (3) Is of good character;

- (4) Has not, since the last renewal of the permit, committed any act which would be grounds for action against a permit as specified in 172 NAC 56-007 or if an act(s) was committed, provide an explanation of all such acts;
 - (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, is a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. § 38-129, is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Alien or nonimmigrant: Evidence of lawful presence, and/or immigration status which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential Information: If the applicant holds or has held a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: if the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial issuance of the permit if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;

- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and
3. Signature of applicant and date; and
 4. The renewal fee according to 172 NAC 2.

56-009.02A Waivers for Military Service: A permit holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service, as defined in 172 NAC 56-002, is not required to pay the renewal fee. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and renew the permit. The permit will remain active until the next renewal period.

56-009.03 Department Review: The Department will act within 150 days upon all completed applications for renewal.

56-009.03A False Information: The Department may refuse to renew a permit for falsification of any information submitted for renewal of a permit. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

56-009.04 Address Information: Each permit holder must notify the Department of any change to the address of record and submit a new application according to 172 NAC 56-008.02.

56-009.05 Expiration of A Permit: A permit expires if a permit holder fails to:

1. Notify the Department that s/he wants to place his/her permit on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her permit; or
3. Otherwise fails to renew his/her permit.

56-009.05A Failure to Renew: A permit automatically expires without further notice or opportunity for hearing if a permit holder fails by the expiration date of the permit to pay the required renewal fee.

56-009.05B Right to Practice: When an individual's permit expires, the right to represent him/herself as a permit holder and to administer anesthesia terminates.

56-009.05C Practice After Expiration: An individual who practices after expiration of his/her permit is subject to assessment of an administrative penalty under 172

NAC 56-012 or such other action as provided in the statutes and regulations governing the permit.

56-009.05D Reinstatement of an Expired Permit: If a permit holder wants to resume the administration of anesthesia after failing to renew his/her permit by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 56-011.

56-009.06 Inactive Status: When an individual wants to have his/her permit placed on inactive status, s/he must notify the Department in writing. There is no fee to have a permit placed on inactive status and continuing competency is not required.

56-009.06A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her permit placed on inactive status, the Department will notify the permit holder in writing of the acceptance or denial of the request.

56-009.06B Placement on Inactive Status: When an individual's permit is placed on inactive status, the permit holder must not engage in the administration of anesthesia, but may represent him/herself as having an inactive permit.

56-009.06C Return to Active Status: A permit may remain on inactive status for an indefinite period of time. An individual who wants to have his/her permit returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 56-011.

56-010 VOLUNTARY SURRENDER OR LIMITATION: A credential or permit holder may offer to voluntarily surrender or limit a credential or permit issued by the Department. The credential or permit holder must make the offer in writing on a form provided by the Department or constructed by the credential or permit holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number (optional); and
 - d. Fax number (optional).
2. Information Regarding the Credential or Permit Being Offered for Surrender or Limitation:
 - a. List credential(s) or permit(s) and credential or permit number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential or permit; and
 - d. Specify any terms and conditions that the credential or permit holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential or permit holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential or permit holder's signature and date.

56-010.01 The Department may accept an offer of voluntary surrender or limitation of a credential or permit based on:

1. An offer made by the credential or permit holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

56-010.02 The Department may reject an offer of voluntary surrender of a credential or permit under circumstances which include, but are not limited to, when the credential or permit:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

56-010.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential or permit holder may apply to have the credential or permit reinstated; and
 - c. Any terms and conditions for reinstatement.

56-010.04 A limitation may be placed on the right of the credential or permit holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

56-010.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential or permit holder will be due cause for the refusal of renewal of the credential or permit, for the suspension or revocation of the credential or permit, or for refusal to restore the credential or permit.

56-010.06 Reinstatement following voluntary surrender is set out in 172 NAC 56-011.

56-011 REINSTATEMENT: This section applies to individuals previously credentialed or permitted in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential or permit. Individuals may apply for reinstatement as follows:

1. An individual whose credential or permit has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential or permit has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential or permit has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential or permit has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential or permit may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

56-011.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) Name;
 - (2) Address;
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential or permit in another state, a list of the state(s) and type of credential or permit;
 - b. If the applicant is an alien or nonimmigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);

- d. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- e. Dentists and dental hygienists must answer the following questions either yes or no. The questions pertain to the time period since the credential or permit was last active, unless otherwise specified. For any yes answers, explain the circumstances and outcome. Applicant will be notified of any additional documentation which is required by the Board/Department:

Section I

- (1) Have you had any disciplinary or adverse action imposed against a professional credential or permit in any state or jurisdiction?
- (2) Have you voluntarily surrendered or voluntarily limited in any way a credential or permit issued to you by a licensing or disciplinary authority?
- (3) Have you been requested to appear before any licensing agency?
- (4) Have you been notified of any charges, complaints or other actions filed against you by any licensing or disciplinary authority?
- (5) Are you aware of any pending disciplinary actions or of any on-going investigations of a complaint against your credential or permit in any jurisdiction?
- (6) Have you been asked to and/or permitted to withdraw an application for a credential or permit with any Board or jurisdiction?
- (7) Has any state or jurisdiction refused to issue, refused to renew or denied you a credential or permit to practice?

Section II

- (1) Are you currently, or have you been, addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (2) Within the past 5 years, have you received any therapy/treatment or been admitted to any hospital or other in-patient care facility for reasons relating to your use/abuse of alcohol, narcotics, barbiturates, or other drugs?
- (3) Do you currently, or have you had, any physical, mental, or emotional condition which impaired, or does impair your ability to practice your health care profession safely and competently?
- (4) Within the past 5 years, has any licensing agency or credentialing organization initiated any inquiry into your physical, mental or emotional health.

Section III

- (1) Have you been restricted, suspended, terminated, requested to voluntarily resign, placed on probation, counseled, received a warning or been subject to any remedial or disciplinary action during dental/dental hygiene school or postgraduate training?

- (2) Have you had hospital or institutional privileges denied, reduced, restricted, suspended, revoked, terminated or placed on probation?
- (3) Have you ever voluntarily resigned or suspended hospital or institutional privileges while under investigation from a hospital, clinic, institution, or other dental/dental hygiene related employment?
- (4) Have you been notified that any action against your hospital or institutional privileges is pending or proposed?
- (5) Have you been allowed to withdraw your staff privileges from a hospital or institution?
- (6) Have you been subject to staff disciplinary action or non-renewal of an employment contract?

Section IV

- (1) Have you been convicted of a felony?
- (2) Have you been convicted of a misdemeanor?
- (3) Have you been notified of any charges, complaints or other actions filed against you by any criminal prosecution authority?

Section V (dentists only)

- (1) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (2) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (3) Have you surrendered your state or federal controlled substances registration?
- (4) Have you had your state or federal controlled substances registration restricted or disciplined in any way?

Section VI

- (1) Have you been notified of any professional liability claim that resulted in an adverse judgment, settlement, or award, including settlements made prior to suit in which the patient releases any professional liability claim against the applicant?
 - (2) Are you aware of any professional liability claims currently pending against you?
- f. Must attest that s/he:
- (1) Has met the continuing competency requirements for dentists and dental hygienists renewal; and
 - (2) Has submitted proof of one of the following:
 - (a) Practicing either dentistry or dental hygiene for at least 1,000 hours within the three years immediately preceding the date of the application;
 - (b) Passing the practical examination administered by the Central Regional Dental Testing Service or any other regional or state practical examination that the Board of Dentistry determines is comparable to such practical examination within the three years immediately preceding the date of the application; or

- (c) Passing a competency assessment approved by the Board;
or
 - (3) If applying to reinstate a temporary dentist license, has submitted proof the applicant is still enrolled in a postgraduate/residency program; or
 - (4) If applying to reinstate an anesthesia permit, has submitted proof the applicant has met the requirement for maintaining a properly equipped facility, current basic life-support certification, and an on-site inspection. The on-site inspection is only required for general anesthesia and parenteral sedation permits; and
 - (5) Has not practiced in Nebraska since s/he last held an active credential or permit, or if the applicant has practiced in Nebraska since s/he last held an active credential or permit, the actual number of days practiced;
 - (6) Has not committed any act which would be grounds for action against a credential or permit as specified in 172 NAC 56-007 since the last renewal or issuance of the credential or permit (whichever is later), or if an act(s) was committed, provide an explanation of all such acts;
 - (7) Is of good character;
 - (8) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, is a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (9) For purposes of Neb. Rev. Stat. § 38-129, is:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act;
or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Fee(s): The following fee(s):
- a. If the credential or permit is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential or permit was voluntarily surrendered, the renewal fee.

56-011.01A If an applicant has practiced while his/her credential or permit was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

- 1. Deny the application to reinstate the credential or permit;
- 2. Reinstate the credential or permit to active status and impose limitation(s) or other disciplinary actions on the credential or permit;
and/or
- 3. Reinstate the credential or permit.

56-011.01B If an applicant has committed any other violation of the statutes and regulations governing the credential or permit, the Department may:

- 1. Deny the application for reinstatement of the credential or permit;

2. Reinstatement the credential or permit to active status and impose limitation(s) or other disciplinary actions on the credential or permit; and/or
3. Reinstatement the credential or permit.

56-011.01C The Department will act within 150 days on all completed applications.

56-011.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

56-011.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential or permit was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 56-011.01.

56-011.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential or permit was suspended or limited may apply for reinstatement at any time. An individual whose credential or permit has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential or permit was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential or permit in another state, a list of the state(s) and type of credential or permit;
 - (5) A statement of the reason the applicant believes his/her credential or permit should be reinstated;
 - b. If the applicant is an alien or nonimmigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;

- (3) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
- (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address; and
 - (3) Fax number;
- d. Dentists and dental hygienists must answer the following questions either yes or no. The questions pertain to the time period since the credential or permit was last active, unless otherwise specified. For any yes answers, explain the circumstances and outcome. Applicant will be notified of any additional documentation which is required by the Board/Department:

Section I

- (1) Have you had any disciplinary or adverse action imposed against a professional credential or permit in any state or jurisdiction?
- (2) Have you voluntarily surrendered or voluntarily limited in any way a credential or permit issued to you by a licensing or disciplinary authority?
- (3) Have you been requested to appear before any licensing agency?
- (4) Have you been notified of any charges, complaints or other actions filed against you by any licensing or disciplinary authority?
- (5) Are you aware of any pending disciplinary actions or of any on-going investigations of a complaint against your credential or permit in any jurisdiction?
- (6) Have you been asked to and/or permitted to withdraw an application for a credential or permit with any Board or jurisdiction?
- (7) Has any state or jurisdiction refused to issue, refused to renew or denied you a credential or permit to practice?

Section II

- (1) Are you currently, or have you been, addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (2) Within the past 5 years, have you received any therapy/treatment or been admitted to any hospital or other in-patient care facility for reasons relating to your use/abuse of alcohol, narcotics, barbiturates, or other drugs?
- (3) Do you currently, or have you had, any physical, mental, or emotional condition which impaired, or does impair your ability to practice your health care profession safely and competently?
- (4) Within the past 5 years, has any licensing agency or credentialing organization initiated any inquiry into your physical, mental or emotional health?

Section III

- (1) Have you been restricted, suspended, terminated, requested to voluntarily resign, placed on probation, counseled, received a

warning or been subject to any remedial or disciplinary action during dental/dental hygiene school or postgraduate training?

- (2) Have you had hospital or institutional privileges denied, reduced, restricted, suspended, revoked, terminated or placed on probation?
- (3) Have you ever voluntarily resigned or suspended hospital or institutional privileges while under investigation from a hospital, clinic, institution, or other dental/dental hygiene related employment?
- (4) Have you been notified that any action against your hospital or institutional privileges is pending or proposed?
- (5) Have you been allowed to withdraw your staff privileges from a hospital or institution?
- (6) Have you been subject to staff disciplinary action or non-renewal of an employment contract?

Section IV

- (1) Have you been convicted of a felony?
- (2) Have you been convicted of a misdemeanor?
- (3) Have you been notified of any charges, complaints or other actions filed against you by any criminal prosecution authority?

Section V (dentists only)

- (1) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (2) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (3) Have you surrendered your state or federal controlled substances registration?
- (4) Have you had your state or federal controlled substances registration restricted or disciplined in any way?

Section VI

- (1) Have you been notified of any professional liability claim that resulted in an adverse judgment, settlement, or award, including settlements made prior to suit in which the patient releases any professional liability claim against the applicant?
 - (2) Are you aware of any professional liability claims currently pending against you? and
- f. Must attest that s/he:
- (1) Has met the continuing competency requirements for dentists and dental hygienists renewal; and
 - (2) Has submitted proof of one of the following:
 - (a) Practicing either dentistry or dental hygiene for at least 1,000 hours within the three years immediately preceding the date of the application;
 - (b) Passing the practical examination administered by the Central Regional Dental Testing Service or any other regional or state practical examination that the Board of Dentistry determines is comparable to such practical

- examination within the three years immediately preceding the date of the application; or
- (c) Passing a competency assessment approved by the Board; or
- (3) If applying to reinstate a temporary dentist license, has submitted proof the applicant is still enrolled in a postgraduate/residency program; or
 - (4) If applying to reinstate an anesthesia permit, has submitted proof the applicant has met the requirement for maintaining a properly equipped facility, current basic life-support certification, and an on-site inspection. The on-site inspection is only required for general anesthesia and parenteral sedation permits; and
 - (5) Has not practiced in Nebraska since s/he last held an active credential or permit, or if the applicant has practiced in Nebraska since s/he last held an active credential or permit, the actual number of days practiced;
 - (6) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 56-007 since the last renewal or issuance of the credential or permit (whichever is later), or if an act(s) was committed, provide an explanation of all such acts;
 - (7) Is of good character;
 - (8) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, is a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (9) For purposes of Neb. Rev. Stat. § 38-129, is:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee: The renewal fee.

56-011.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

56-011.03B The Department, with the recommendation of the Board, may:

- 1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
- 2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
- 3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;

4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

56-011.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 56-011.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential or permit;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential or permit was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 56-012, in which case a separate notice of opportunity for a hearing will be sent to the applicant.

56-011.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential or permit with or without terms, conditions, or restrictions.

56-011.03E Full Reinstatement: If the Board recommends full reinstatement of the credential or permit, modification of the suspension or limitation, or reinstatement of the credential or permit subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

56-011.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommendation modification of the suspension or limitation, or reinstate the credential or permit subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the

- hearing. The notice will be sent by certified mail at least 30 days before the hearing.
- b. Following the hearing, if the Board's decision is denial of the application for reinstatement, the applicant will be notified by certified mail.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without hearing before the Board.

56-011.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

56-011.03H Board Recommendation: If the Board's Final recommendation is full reinstatement of the credential or permit, modification of the suspension or limitation, or reinstatement of the credential or permit subject to limitations of probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

56-011.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential or permit will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

56-012 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential or permit to practice a profession or operate a business. Practice without a credential or permit for the purpose of this regulation means practice:

1. Prior to the issuance of a credential or permit;
2. Following the expiration of a credential or permit; or
3. Prior to the reinstatement of a credential or permit.

56-012.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed or permitted:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

56-012.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential or permit. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.

2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

56-012.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

56-013 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH
PROFESSIONAL AND OCCUPATIONAL LICENSES REGULATIONS

CHAPTER 57 - REGULATIONS GOVERNING THE PRACTICE OF DENTAL
HYGIENISTS APPROVED TO ADMINISTER LOCAL ANESTHESIA

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TITLE 172 - Nebraska Department of Health Professional and Occupational Licenses
Regulations

CHAPTER 57 - Regulations Governing the Practice of Dental Hygienists Approved to
Administer Local Anesthesia

001 SCOPE OF REGULATIONS. These regulations govern the practice of dental hygienists approved to administer local anesthesia in Nebraska.

002 DEFINITIONS.

002.01 Approved course means a course which the Board has approved for the education and training of dental hygienists to administer local anesthesia.

002.02 Board means the Board of Examiners in Dentistry.

002.03 Clock hour means 50 to 60 minutes.

002.04 Department means the Department of Health of the State of Nebraska.

002.05 Indirect Supervision means the licensed dentist authorizes the procedure to be performed by an approved dental hygienist and the licensed dentist is physically present on the premises when such procedure is being performed by the dental hygienist.

002.06 Licensed Dental Hygienist means an individual who holds a current Nebraska license to practice dental hygiene.

002.07 Licensed Dentist means an individual who holds a current Nebraska license to practice dentistry.

003 REQUIREMENTS FOR COURSE APPROVAL. Pursuant to the provision of Neb. Rev. Stat. 71-193.18, the Department, upon the recommendation of the Board, shall prescribe a curriculum which licensed dental hygienists must complete to become approved to administer local anesthesia and establish minimum standards for approved courses.

003.01 The course of instruction must be at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health.

003.02 The course of instruction must be taught by a faculty member or members of the institution presenting the course.

003.03 The course shall be no less than twelve clock hours of classroom instruction which shall include but not be limited to:

003.03A Medical history evaluation procedures;

003.03B Anatomy of the head, neck and oral cavity as it relates to administering local anesthetic agents;

003.03C Pharmacology of local anesthetic agents, vasoconstrictor and preservatives, including physiologic actions, types of anesthetics, and maximum dose per weight;

003.03D Systemic conditions which influence selection and administration of anesthetic agents;

003.03E Signs and symptoms of reactions to local anesthetic agents, including monitoring of vital signs;

003.03F Management of reaction to or complications associated with the administration of local anesthetic agents;

003.03G Selection and preparation of the armamentaria for administering various local anesthetic agents; and

003.03H Methods of administering local anesthetic agents.

003.04 The course shall provide for at least twelve clock hours of clinical instruction during which time at least three of each of the following types of injections shall be administered:

003.04A Anterior superior alveolar;

003.04B Middle superior alveolar;

003.04C Posterior superior alveolar;

003.04D Naso palatine;

003.04E Greater palatine;

003.04F Infraorbital;

003.04G Inferior alveolar/lingual;

003.04H Mental;

003.04I Long buccal; and

003.04J Infiltration.

003.05 The course shall include procedures for purposes of determining whether the hygienist has acquired the necessary knowledge and proficiency to administer local anesthetic agents. Such procedures shall include, but not be limited to:

003.05A An examination which the hygienist is required to pass.

003.06 An applicant to conduct an approved course shall submit to the Department .

003.06A An application on a form provided by the Department, a copy of which is attached hereto as Attachment A and incorporated in these regulations by this reference.

003.07 The Department shall act within one hundred fifty (150) days upon all completed applications to conduct an approved course.

003.08 All institutions with approved courses shall keep the Board informed of any changes in course objectives, content, and/or faculty at the time such changes occur.

003.09 The Department, upon the recommendation of the Board, may deny or rescind approval of an approved course for failure to meet or continue to meet the criteria for approval of a course.

004 REQUIREMENTS FOR APPROVAL OF A LICENSED DENTAL HYGIENIST FOR ADMINISTRATION OF LOCAL ANESTHESIA. No licensed dental hygienist may administer local anesthesia unless they have been approved by the Department of Health, upon the recommendation of the Board of Examiners in Dentistry, pursuant to Neb. Rev. Stat. 71-193.18.

004.01 An applicant for approval to administer local anesthesia must:

004.01A Have a current license to practice dental hygiene in the State of Nebraska;

004.01B Have successfully completed an approved course after July 1, 1994;

004.01C Submit to the Department:

004.01C(1) A verified application on a form provided by the Department, a copy of which is attached hereto as Attachment B and incorporated in these regulations by this reference. Only application forms which are complete will be considered;

004.01C(2) Proof of successful completion of an approved course;

004.01C(2)a All applicants taking out-of-state courses must provide course syllabus, name and location of institution, and date of course; and

004.01C(3) The required fee.

004.02 The Department shall act within one hundred fifty (150) days of receipt of the completed application for approval to administer local anesthesia.

004.03 If the Department, upon the recommendation of the Board, proposes to deny approval, the applicant shall be given an opportunity for a hearing before the Department and shall have the right to present evidence on his or her own behalf. Hearings before the Department shall be conducted in accordance with the Administrative Procedures Act and 164 NAC 1, the Rules of Practice and Procedure for the Department.

005 PRACTICE BY A LICENSED DENTAL HYGIENIST APPROVED TO ADMINISTER LOCAL ANESTHESIA.

005.01 Only those licensed dental hygienists approved pursuant to Section 004 of these regulations may administer local anesthesia.

005.02 A licensed dental hygienist approved to administer local anesthesia may do so only under the indirect supervision of a licensed dentist.

005.03 Following administration of local anesthesia by a licensed dental hygienist the following information shall be documented in the patient record:

005.03A Date and time of administration;

005.03B Identity of individual administering;

005.03C Type of anesthesia administered;

005.03D Dosage/amount administered;

005.03E Location/site of administration; and

005.03F Any adverse reaction.

006 SCHEDULE OF FEES

006.01 By an applicant for approval to administer local anesthesia, the fee of thirty-five dollars (\$35.00).

Approved by the Attorney General on May 20, 1996

Approved by the Governor on July 24, 1996

Filed by the Secretary of State on July 24, 1996

Effective July 29, 1996

Forms referred to in the body of these regulations as Attachments A and B are available upon request.

Professional and Occupational Licensure Division
P.O. Box 94986
Lincoln, NE 68509-4986

This publication is available in alternate formats.

EFFECTIVE
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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 58

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 58 DENTAL FACULTY LICENSES

58-001 SCOPE AND AUTHORITY: These regulations govern the licensure of Dental Faculty under the Dentistry Practice Act and the Uniform Credentialing Act.

In addition to the requirements of 172 NAC 58, all dental faculty licensees are subject to 172 NAC 56-006 Continuing Education; 172 NAC 56-007 Disciplinary Actions; 172 NAC 56-008 Initial Anesthesia Permit; and 172 NAC 56-010 Reinstatement.

58-002 DEFINITIONS: For purpose of these regulations, definitions in the Uniform Credentialing Act and the Dentistry Practice Act and the following definitions are hereby adopted.

Accredited Dental Education Institution means a school or college of dentistry that is accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Complete Application means an application that contains all of the information requested on the application with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007)

Non-Accredited Dental Education Institution means a school or college of dentistry that is not accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board.

Official Transcript means a transcript issued by and under the original seal of the educational institution.

Postgraduate Education means advanced dental education programs accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board, which includes dental specialties, general practice residencies and advanced education in general dentistry.

58-003 REQUIREMENTS FOR ISSUANCE OF DENTAL FACULTY LICENSES: An applicant for licensure must pay the appropriate fee and submit to the Department an application and any necessary documentation to show that the applicant meets licensure qualifications. To receive a dental faculty license, an individual must meet the following:

58-003.01 Requirements Based on Graduation from an Accredited Dental Education Institution:

58-003.01A Age and Good Character: Be at least 19 years old and of good character;

58-003.01B Citizenship/Lawful Presence: Meet the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.

58-003.01C Education: Have graduated from an accredited dental education institution. Upon presentation of satisfactory evidence that the education, training, or service completed by an applicant for a credential while a member of the armed forces of the United States, active or reserve, the National Guard of any state, the military reserves of any state, or the naval militia of any state is substantially similar to the education required for the credential, the Department, with the recommendation of the appropriate board, will accept such education, training, or service toward the minimum standards for the credential;

58-003.01D Licensure: Holds or has held a license to practice dentistry within the past five years in the United States or Canadian province;

58-003.01E Employment: Have a contract to be employed as a full-time faculty member at an accredited dental education institution in the State of Nebraska;

58-003.01F Examination: Pass the jurisprudence examination administered by the Board of Dentistry that relates to the statutes and regulations that govern dentistry with an average score of 75% or above;

58-003.02 Requirements Based on Graduation from a Non-accredited Dental Education Institution:

58-003.02A Age and Good Character: Be at least 19 years old and of good character;

58-003.02B Citizenship or Lawful Presence: Meet the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.

58-003.02C Education:

1. Have graduated from a non-accredited dental education institution; and
2. Have completed two years of postgraduate education at an accredited education institution;

58-003.02D Employment: Have a contract to be employed as a full-time faculty member at an accredited dental education institution in the State of Nebraska;

58-003.02E Examination:

1. Pass the licensure examination Part I and Part II given by the Joint Commission on National Dental Examinations (JCNDE) with a score of 75 or above on each part of the examination; and
2. Pass the jurisprudence examination administered by the Board of Dentistry that relates to the statutes and regulations that govern dentistry with an average score of 75% or above;

58-003.03 Application: The application must contain all of the information and documentation required by Neb. Rev. Stats. § 38-129, § 38-130, and § 4-111 and these regulations, including:

58-003.03A Education:

1. An official transcript from an accredited dental education institution showing the graduation date must be sent directly to the department by the originating program or institution; or
2. Verification of graduation from a non-accredited dental college/school, sent directly from the college/school of dentistry to the department (Documents not printed in English must be accompanied by an official English translation.) and verification of completing two years of postgraduate education at an accredited dental education institution sent directly from the college/school of dentistry directly to the department.

58-003.03B Examination:

1. The dental jurisprudence examination shall be submitted with the application and graded upon receipt; and
2. If applicable, official documentation of the scores obtained on Part I and Part II of the licensure examination given by JCNDE.

58-003.03C Credentialed in Another Jurisdiction information: Any credential held or previously held by the applicant to provide health services, health related services, or environmental services in Nebraska or in any other jurisdiction. Such information must include:

1. The jurisdiction where each credential was issued;
2. The credential number;
3. The type of credential;
4. The date of issuance and the expiration date of each credential, if any. The applicant must have a certification of each credential submitted by the issuing agency to the department.

58-003.03D Adverse Actions: History of disciplinary actions, adverse actions, denials, denial of the right to take a credentialing examination, or other actions against a credential in any state or jurisdiction, including, but not limited to:

1. Voluntary surrenders or voluntary limitations;
2. Prior refusals to issue or to renew or to renew a credential;
3. Any disciplinary actions or denials of any credential; and
4. An explanation for all adverse action and or denial.

58-003.03E Convictions: Any misdemeanor or felony conviction(s). If the applicant has been convicted, the following information and documentation must be submitted to the department:

1. A list of any misdemeanor or felony convictions;
2. A copy of the court record, which includes charges and disposition;
3. Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behavior/actions related to the convictions;
4. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; a letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation, and
5. Any other information as requested by the Board or Department;

58-003.03F Alien or Non-Immigrant: Documentation that the applicant meets the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.

58-003.03G Statement Regarding Continuing Clinical Competency: A statement that the applicant agrees to demonstrate continuing clinical competency as a condition for renewal;

58-003.03H Practice Statement: A statement that the applicant has not practiced as dentist in Nebraska before being issued a credential, or if the applicant has practiced as a dentist in Nebraska before being issued a credential a statement of the number of days practiced and the name and location of practice;

58-003.04 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. The documents may not be translated by the Applicant.

58-003.05 The Department must act within 150 days upon completed applications for licensure.

58-003.06 A faculty dental licensee may teach dentistry, conduct research, and participate in an institutionally administered faculty practice only at the accredited dental education institution where the applicant has a contract to be employed as a full-time faculty member and must limit his/her practice at an accredited dental education institution to the clinical discipline in which s/he has received postgraduate education.

58-003.07 Denied or Withdrawn Applications:

58-003.07A Denied Application: An applicant for a Dental Faculty license whose application is denied by the department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the department. Any examination fee will not be returned.

58-003.07B Withdrawn Application: An applicant for a Dental faculty license may request to withdraw the application. A request to withdraw an application will be granted:

1. When the request for withdrawal is received within five business days of the receipt of a completed application.

If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the department.

58-004 PROCEDURES FOR RENEWAL OF A DENTAL FACULTY LICENSE: An individual who wants to renew his/her dental faculty license to practice as a dentist must, prior to the expiration date, file an application for renewal, pay the fee, demonstrate compliance with continuing education requirements, and of meeting the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.

58-004.01 Renewal Application: The licensee must provide the following information:

1. The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
2. Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
3. The applicant's:
 - a. Social Security Number (SSN);
 - b. Alien Registration Number (A#); or

Disclosing a social security number is mandatory. Certain applicants may have both a social security number and an alien registration number, and if so, must report both.

58-004.02 Must attest that the applicant:

1. Is of good character;
2. Has met the continuing education requirements specified in 172 NAC 56-006 or has requested a waiver if s/he meets the requirements of 172 NAC 56-006.05; and
3. Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in the Uniform Credentialing Act and 172 NAC 56-007, or if an act(s) was committed, provide an explanation of all such acts; and

58-004.03 Documentation: Must submit the following documentation with the application:

1. Alien or Non-immigrant: Documentation that the applicant meets the requirements set out in Neb Rev. Stats. § 38-129 and §§ 4-108 through 4-111.
2. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name and the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
3. Disciplinary Action: A list of any disciplinary action(s) taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
4. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;

5. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal of during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the department:
 - a. A list of any felony or misdemeanor convictions;
 - b. A copy of the court record, which includes charges and disposition;
 - c. Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - d. All addiction/mental health evaluation and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - f. Any other information as requested by the Board/department.

58-005 CONTINUING EDUCATION: Dental faculty licensees must meet continuing education requirements found at 172 NAC 56-006.

58-006 DISCIPLINARY ACTIONS:

58-006.01 Grounds for Action Against a Credential: A dental faculty license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. § 38-178, or for unprofessional conduct.

58-006.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of Dental Faculty or the ethics of the profession, regardless of whether a person, patient, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to the acts set out in Neb. Rev. Stat. §§ 38-179 and 172 NAC 56-007.

58-007 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.

2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

58-008 REINSTATEMENT: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Persons seeking reinstatement of a dental faculty license must meet the requirements for reinstatement pursuant to 172 NAC 56-010. In addition to these requirements, an applicant for reinstatement of a dental faculty license must submit a certification verifying employment as a full-time faculty member at an accredited dental education institution within the State of Nebraska.

58-009 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

Effective Date
12/10/2008

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 61

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 61 LICENSURE OF MEDICAL NUTRITION THERAPISTS

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 61 LICENSURE OF MEDICAL NUTRITION THERAPISTS

61-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of medical nutrition therapists under Neb. Rev. Stat. §§ 38-1801 to 38-1816 and the Uniform Credentialing Act (UCA). These regulations are operative December 1, 2008.

61-002 DEFINITIONS

1. Accredited College or University means an institution currently listed with the United States Secretary of Education as accredited. Applicants who have obtained their education outside of the United States and its territories must have their academic degrees validated as equivalent to a baccalaureate or master's degree conferred by a United States regionally accredited college or university.
2. Act means Neb. Rev. Stat. §38-1801 to 38-1816 known as the Medical Nutrition Therapy Practice Act.
3. Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.
4. ADA means the American Dietetic Association.
5. Alcohol or Substance Abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:
 - a. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
 - b. Recurrent alcohol or substance use in situations in which it is physically hazardous;
 - c. Recurrent legal problems related to alcohol or substance use; or
 - d. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

6. Angoff Method means a method of determining passing scores based on aggregate information obtained by having judges predict the probability that a hypothetical minimally competent candidate will correctly answer items in a test.
7. Assessment means the process of evaluating the nutritional status of patients. The assessment includes review and analysis of medical and diet histories, biochemical lab values, and anthropometric measurements to determine nutritional status and appropriate nutritional treatment.
 - a. An example of assessment could include:
 - (1) Collect/review of records (verify as needed). The records may include anthropometric data; diagnoses, laboratory values, medications, diet order; physical assessment data; and food preference/diet history information;
 - (2) Determine complete nutritional plan of care: fluid need, calorie/protein need, appropriate diet order, need for specific form of food, need for specific adaptive devices for feeding techniques, need for supplemental food, fluid, medical nutritional product;
 - (3) Review/refine goals set for the patient;
 - (4) Review/refine plan to achieve the established goals; and
 - (5) Recommend changes in physician's diet order to physician when identified.
 - b. The mere collection of these data for use in assessment is not medical nutrition therapy and does not require medical nutrition therapy licensure under these regulations.
8. Attest or Attestation means that the individual declares that all statements on the application are true and complete. Attestation to meeting continuing competency requirements satisfies the documentation requirement of Neb. Rev. Stat. § 38-142.
9. Board means the Board of Medical Nutrition Therapy.
10. Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.
11. Confidential Information means information protected as privileged under applicable law.
12. Consultation means conferring with a physician regarding the activities of the licensed medical nutrition therapist.

13. Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.
14. Continuing Competency means to ensure
 - a. The maintenance by a credentialed person of knowledge and skills necessary to competently practice medical nutrition therapy,
 - 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. It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. Section § 38-145.

Continuing Competency programs/activities may be offered as follows:

- a. College/University Coursework
- b. Exhibits
- c. Poster Sessions
- d. Homestudy Programs
- e. Video/Audio Media
- f. Certification Programs
- g. Continuing Education Programs (workshops, seminars, conferences, electronic interactive presentations)

In order for continuing competency to be recognized/count for licensure renewal it must be approved by the Board.

Continuing Competency hours/credits are determined as follows:

- a. College/University Coursework:
 - (1) 1 semester of academic credit equals 15 continuing competency credit hours. One semester credit audited equals 8 hours of continuing competency;
 - (2) 1 quarter hour of academic credit equals 10 continuing competency credit hours. One quarter credit audited equals 5 hours of continuing competency; and
 - (3) 1 trimester hour of academic credit equals 14 continuing competency credit hours. One trimester credit audited equals 7 hours of continuing competency.
- b. Exhibits: 25 exhibits equals 1 continuing competency hour; a limit of 3 continuing competency credit hours per biennium may be obtained through exhibits.

- c. Poster Sessions: 6 poster sessions equals 1 continuing competency hour; a limit of 5 continuing competency credit hours per biennium may be obtained through poster sessions.
- d. Homestudy Programs: A licensee may accumulate up to 15 hours of continuing competency per biennial renewal period.
- e. Video/Audio Media and Journal Clubs: A licensee may accumulate up to 15 hours of continuing competency per biennial renewal period.
- f. Board Certified/Certification/Certificate Programs: 20 hours (unless noted otherwise) will be granted for completing a certified program, certification program or certificate program as follows:
 - (1) Certified Nutrition Support Clinician sponsored by the National Board of Nutrition Support Certification, Inc (NBNSC);
 - (2) Certified Diabetes Educator sponsored by the National Certification Board for Diabetes Educators (NCBDE);
 - (3) Certified Lifestyle and Weight Management Consultant sponsored by the American Council on Exercise (ACE);
 - (4) Board Certification as a Specialist in Pediatric Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - (5) Board Certification as a Specialist in Renal Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - (6) Board Certification as a Specialist in Gerontological Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - (7) Board Certification as a Specialist in Oncology Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - (8) Board Certification as a Specialist in Sports Dietetics sponsored by the Commission;
 - (9) International Board of Lactation Consultant Examiners (IBLCE);
 - (10) Certificate Programs approved through the American Dietetic Association (ADA):
 - (a) Certificate of Training in Childhood and Adolescent Weight Management sponsored by the Commission on Dietetic Registration (CDR) – 29 hours acceptable); and
 - (b) Certificate Training in Adult Weight Management sponsored by the Commission on Dietetic Registration (CDR) – 28 hours acceptable; and
 - (11) Board Certified/Certification/Certificate Programs approved by the ADA/CDR.
- g. Continuing Education Programs (workshops, seminars, conferences, electronic interactive presentations): 60 minutes of participation equals 1 continuing competency hour.

15. Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.
16. Credential means a license, certificate, or registration.
17. Data Collection means the collection of anthropometric data: such as height, weight, age; laboratory values; current medications; diagnoses; food preference; diet history; etc. The collection of data may be completed by ancillary personnel and submitted to the medical nutrition therapist in writing for medical records. The mere collection of these data for use in assessment is not medical nutrition therapy and does not require medical nutrition therapy licensure under these regulations.
18. Department means the Division of Public Health of the Department of Health and Human Services.
19. Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:
 - a. Tolerance as defined by either of the following:
 - (1) A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - (2) A markedly diminished effect with continued use of the same amount of alcohol or the substance;
 - b. Withdrawal as manifested by either of the following:
 - (1) The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - (2) Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
 - c. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
 - d. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
 - e. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
 - f. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or

- g. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.
20. Director means the Director of Public Health of the Division of Public Health or his/her designee.
21. Division means the Division of Public Health of the Department of Health and Human Services.
22. General Nutrition Services includes, but is not limited to:
- a. Identifying the nutritional needs of individuals and groups in relation to normal nutritional requirements; and
 - b. Planning, implementing, and evaluating nutrition education programs for individuals and groups in the selection of food to meet normal nutritional needs throughout the life cycle.
23. Hour means:
- a. For the 900 hours of clinical experience in 172 NAC 61-003 means clock hour. One semester hour of academic credit will constitute 15 clock hours; one quarter hour of academic credit will constitute 10 clock hours; and one trimester hour of academic credit will constitute 12 clock hours. This means an individual must earn at least 60 semester hours, or 90 quarter hours, or 75 trimester hours of academic credit to equal the 900 hours of clinical experience.
 - b. For the course of study in clinical nutrition which must consist of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition, in 172 NAC 61-003.01, item 3c(1) means clock hour.
 - (1) One semester hour of academic credit will constitute 15 clock hours;
 - (2) One quarter hour of academic credit will constitute 10 clock hours; and
 - (3) One trimester hour of academic credit will constitute 12 clock hours.
- This means an individual must earn at least 13.5 semester hours, or 20 quarter hours, or 17 trimester hours to equal the 200 hours needed for the combined biochemistry and physiology; and an individual must earn at least 5 semester hours, or 7.5 quarter hours, or 6.25 trimester hours to equal the 75 hours needed in human nutrition.

24. Inactive Credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.
25. License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.
26. Licensed Medical Nutrition Therapist means a person who is licensed to practice medical nutrition therapy pursuant to the Uniform Credentialing Act and who holds a current license issued by the Department.
27. Licensure Examination means the Registration Examination for Dietitians, as established by the Commission on Dietetic Registration, the credentialing agency of the American Dietetic Association, or any other examination established by the Commission on Dietetic Registration and determined by the Board to be equivalent.
28. Medical Nutrition Therapy means the assessment of the nutritional status of patients. It involves the assessment of patient nutritional status followed by treatment, ranging from diet modification to specialized nutrition support, such as determining nutrient needs for enteral and parenteral nutrition, and monitoring to evaluate patient response to such treatment.
29. Military Service means full-time duty in the active military service of the United States, or a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)
30. Observation means watching the patient during intake of food and fluid. Ancillary personnel may document an observation, such as anthropometric data, food preferences, etc., for medical records or on the patient's chart. Ancillary personnel may also direct questions to the physician in charge or the medical nutrition therapist and may make recommendations based on observations.
31. Official Transcript means issued by and under the original seal of the educational institution.
32. NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 61.
33. Patient means a person with a disease, illness, injury, or medical condition for which nutritional interventions are an essential component of standard care.

34. Pattern of Incompetent or Negligent Conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.
35. Practice of Medical Nutrition Therapy means performed under the consultation of a licensed physician.
36. Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. §38-121.
37. Provider of Continuing Competency means an association, educational institution, individual or group who requests approval from the Board of continuing competency program/activities, and presents continuing competency program/activities to licensees.
38. Served in the Regular Armed Forces has the same meaning as "military service" in these regulations.

61-003 MEDICAL NUTRITION THERAPY LICENSURE: No person shall practice medical nutrition therapy unless s/he is licensed for such purpose pursuant to the Uniform Credentialing Act. The criteria for issuance of licensure, and the documentation required by the Department and the Board are set forth below.

61-003.01 Qualifications: To receive a credential to practice medical nutrition therapy, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States.
3. Registration or Education:
 - a. American Dietetic Association (ADA) Registration: Have met the requirements for and be a registered dietitian with the American Dietetic Association or an equivalent entity recognized by the board; or
 - b. Baccalaureate Degree:
 - (1) Have a baccalaureate degree from an accredited college or university with a major course of study in human

nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the Board;

- (2) Have satisfactorily completed a program of supervised clinical experience approved by the Department. Such clinical experience must consist of not less than 900 hours of a planned continuous experience in human nutrition, food and nutrition, or dietetics under the supervision of an individual meeting the qualifications of a medical nutrition therapist; and
- (3) Have satisfactorily passed the licensure examination with a score as determined by using the Angoff Method; or

c. Master's or Doctoral Degree

- (1) Have a master's or doctoral degree from an accredited college or university in human nutrition, nutrition education, food and nutrition, or public health nutrition, or in an equivalent major course of study with the intent of the degree being nutrition in nature and approved by the Board; or

Have a master's or doctoral degree from an accredited college or university which includes a major course of study in clinical nutrition. Such course of study must consist of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition; and

- (2) Have satisfactorily passed the licensure examination with a score as determined by using the Angoff Method.

61-003.02 Application: To apply for a credential to practice medical nutrition therapy, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);

- (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- b. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced medical nutrition therapy in Nebraska before submitting the application; or
 - (2) If s/he has practiced medical nutrition therapy in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;

- (3) Marriage license that provides date of birth;
- (4) Transcript that provides date of birth;
- (5) U.S. State identification card;
- (6) Military identification; or
- (7) Other similar documentation;

b. Evidence of good character, including:

- (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;

The applicant must have the licensing agency submit to the Department a certification of his/her credential;

- (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and

- (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
 - (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"); or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of ADA Registration or Education /Experience/ Examination:
 - (1) Official documentation of Registration with the Commission on Dietetic Registration; or
 - (2) Documentation of a Baccalaureate Degree and Supervised Clinical Experience, including:
 - (a) Name and date of diploma/degree awarded; and
 - (b) Name of college or university that awarded the diploma/degree;

- (c) An official transcript from an accredited college or university showing receipt of a baccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the Board;
 - (d) Documentation of at least 900 hours of supervised clinical experience; and
 - (e) Official documentation of the examination score from the American Dietetic Association or scores sent by the Commission on Dietetic Registration; or
- (3) Documentation of a Master's or Doctoral Degree, including:
- (a) Name and date of diploma/degree awarded;
 - (b) Name of college or university that awarded the diploma/degree;
 - (c) An official transcript from an accredited college or university showing receipt of one of the following:
 - i. A master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition or in an equivalent major course of study with the intent of the degree being nutrition in nature and approved by the Board; or
 - ii. A master's or doctoral degree which included a major course of study in clinical nutrition;
 - (d) Verification of completion of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition; and
 - (e) Official documentation of the examination score from the American Dietetic Association or scores sent by the Commission on Dietetic Registration;
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
- a. Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

61-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

61-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC 61-007, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

61-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

61-003.05 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 61-010 or such other action as provided in the statutes and regulations governing the credential.

61-003.06 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

61-003.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

61-003.08 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

61-004 EXAMINATION: The licensure examination is administered by the Commission on Dietetic Registration (CDR).

61-005 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession. Except as otherwise provided in 172 NAC 61-006.03 and 61-006.04, the Department will not renew the credential of any person who has not complied with these requirements. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

61-005.01 General Requirements: On or before September 1 of each odd-numbered year, each medical nutrition therapist who is in active practice in the State of Nebraska must meet the following continuing competency requirements:

61-005.01A The licensee must complete 30 hours of approved continuing competency programs/activities during the preceding 24 month period. No more than the total number of approved hours offered in Nebraska will be required during this period;

61-005.01B The licensee must submit to the Department, on the renewal form, verification of meeting the continuing competency requirements. The completed form must include the following information:

1. The title of the program/activity;
2. The number of hours of approved continuing competency credit received for each program/activity;
3. The date(s) of the continuing competency program/activity;
4. The location of the continuing competency program/activity; and
5. The name of the provider of the continuing competency program/activity.

61-005.01C The licensee must be responsible for:

1. Maintaining a record of attendance at approved continuing competency programs/activities;
2. Verifying with the Department that the continuing competency program/activity is approved by the Board; and
3. Maintaining documentation of attendance at or presentation of approved continuing competency programs/activities. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program/activity.

61-005.01D The licensee must attend programs/activities for which the subject matter clearly relates to maintaining skills necessary for the safe and competent practice of medical nutrition therapy. Medical nutrition therapy is assessment of patient nutritional status followed by treatment, ranging from diet modification to specialized nutrition support, such as determining nutrient needs for enteral and parenteral nutrition, and monitoring to evaluate patient response to such treatment. Continuing competency may be gained as:

1. College/University Courses from an approved graduate or undergraduate program.
2. Continuing Education Programs (Workshops, seminars, or conferences, electronic interactive presentations).

3. Exhibits or Poster Sessions.
4. Homestudy Programs.
5. Video/Audio Media and Journal Clubs.
6. Board Approved Certified/Certification/Certificate Programs. 20 hours (unless noted otherwise) will be granted for completing a certified program, certification program or certificate program as follows:
 - (a) Certified Nutrition Support Clinician sponsored by the National Board of Nutrition Support Certification, Inc (NBNSC);
 - (b) Certified Diabetes Educator sponsored by the National Certification Board for Diabetes Educators (NCBDE);
 - (c) Certified Lifestyle and Weight Management Consultant sponsored by the American Council on Exercise (ACE);
 - (d) Board Certification as a Specialist in Pediatric Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - (e) Board Certification as a Specialist in Renal Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - (f) Board Certification as a Specialist in Gerontological Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - (g) Board Certification as a Specialist in Oncology Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - (h) Board Certification as a Specialist in Sports Dietetics sponsored by the Commission;
 - (i) International Board of Lactation Consultant Examiners (IBLCE);
 - (j) Certificate Programs approved through the American Dietetic Association (ADA):
 - (1) Certificate of Training in Childhood and Adolescent Weight Management sponsored by the Commission on Dietetic Registration (CDR) – 29 hours acceptable); and
 - (2) Certificate Training in Adult Weight Management sponsored by the Commission on Dietetic Registration (CDR) – 28 hours acceptable; and
 - (k) Board Certified/Certification/Certificate Programs approved by the ADA/CDR.

61-005.01E Examples of nonacceptable subject matter include, but are not limited to, the following:

1. Menu planning;
2. Dietetic association business meeting or delegate report;
3. Cooking or baking demonstrations;
4. Food service sanitation;
5. Catering;
6. Garnishing techniques;
7. Publishing an employee training manual;
8. Sales presentation on a company's new product;
9. Marketing self as dietitian;
10. Communication skills; or
11. Language Training.

61-005.02 Continuing Competency Program/Activities: The Board will evaluate applications from providers of continuing competency programs/activities or licensees in order to determine if approval is to be granted or denied.

61-005.02A Criteria: To be approved, a continuing competency program/activity must meet the following criteria:

1. The program/activity must be at least 60 minutes in duration;
2. The program/activity's objectives must relate directly to the theory or clinical application of theory pertaining to the practice of medical nutrition therapy;
3. Presenters of programs/activities must be qualified by education, experience, or training;
4. Programs/activities must be open to all medical nutrition therapists licensed by the Department who meet the pre-requisites for the program/activity;
5. Program/activity provider must have a process for monitoring and verifying attendance; and
6. The program/activity provider must employ a system to monitor knowledge obtained by the licensee, such as, but not limited to, a final examination or program/activity evaluation.

61-005.02B Approval: To obtain approval of a continuing education program, a licensee or provider must submit a complete application to the Department. A complete application includes all required documentation and written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. A copy of the agenda of the program/activity indicating actual presentation times, lunch and breaks;
2. The name of the program/activity;
3. A description of program/activity objectives;
4. A description of the qualifications of each presenter. Curriculum vita, resume, or documentation of training in a presentation of program/activities pertaining to dietetics and nutrition services may also be submitted as supporting documentation of the presenter's qualifications;
5. The number of hours for which approval is requested;
6. The name, address, and telephone number of the provider and its administrator or operating officer;
7. A description of the process the provider uses to verify attendance by the licensee;
8. A sample copy of the documentation the provider issues to the licensee as proof of attendance at the program/activity;
9. A sample copy of the final examination or program/activity evaluation that will be used to evaluate the knowledge obtained by the licensee upon completion of the program/activity; and
10. The date, time and place of the program/activity.

61-005.03 Homestudy Programs:

61-005.03A Criteria: The Board will evaluate applications from providers of homestudy programs or licensees in order to determine if approval is to be granted or denied. To be approved, a homestudy program must meet the following criteria:

1. The homestudy program's objectives must relate to the enhancement of practice/skills of medical nutrition therapy;
2. The provider must be qualified by education, experience, or training; and
2. The provider must employ a system to monitor knowledge obtained by the licensee completing a homestudy program, such as, but not limited to a final examination or program evaluation.

61-005.03B Approval: To obtain approval of a home study program, a licensee or provider must submit a complete application to the Department. A complete application includes all required documentation and written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. The name of the textbook or other training material utilized;
2. A description of the qualifications of the provider, which includes the education, experience, and training that qualifies the individual to present and/or develop home study programs. Curriculum vita, resume, or documentation of training in development of home study programs may also be submitted as supporting documentation of the provider's qualifications;
3. A description of the objectives, which must include a statement of the knowledge which the participants are expected to gain from the outcome of the study; and
4. The name, address, and telephone number of individual submitting the application.

61-005.04 Video/Audio Media and Journal Clubs: The Board will evaluate applications from licensees in order to determine if approval is to be granted or denied.

61-005.04A Criteria: To be approved, a video/audio media or journal club must meet the following criteria:

1. The video/audio media must relate to the enhancement of skills/practice of medical nutrition therapy; and
2. A journal club must be an organized activity, with a pre-determined discussion topic and must be conducted in a monitored environment by another licensed medical nutrition therapist.

61-005.04B Approval: To obtain approval of a video/audio media or journal club, a licensee must submit a complete application to the Department. A complete application includes all required documentation and the written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. The name, address and telephone number of the licensee submitting the application;

2. The name of the audio/video media or journal topic;
3. A description of the objectives, which must include a statement of the knowledge which the participants are expected to gain from the outcome of the review.

61-005.05 Board Approved Certified/Certification/Certificate Programs: 20 hours (unless noted otherwise) will be granted for completing a certified program, certification program or certificate program as follows:

1. Certified Nutrition Support Clinician sponsored by the National Board of Nutrition Support Certification, Inc (NBNSC);
2. Certified Diabetes Educator sponsored by the National Certification Board for Diabetes Educators (NCBDE);
3. Certified Lifestyle and Weight Management Consultant sponsored by the American Council on Exercise (ACE);
4. Board Certification as a Specialist in Pediatric Nutrition sponsored by the Commission on Dietetic Registration (CDR);
5. Board Certification as a Specialist in Renal Nutrition sponsored by the Commission on Dietetic Registration (CDR);
6. Board Certification as a Specialist in Gerontological Nutrition sponsored by the Commission on Dietetic Registration (CDR);
7. Board Certification as a Specialist in Oncology Nutrition sponsored by the Commission on Dietetic Registration (CDR);
8. Board Certification as a Specialist in Sports Dietetics sponsored by the Commission;
9. International Board of Lactation Consultant Examiners (IBLCE);
10. Certificate Programs approved through the American Dietetic Association (ADA):
 - a. Certificate of Training in Childhood and Adolescent Weight Management sponsored by the Commission on Dietetic Registration (CDR) – 29 hours acceptable); and
 - b. Certificate Training in Adult Weight Management sponsored by the Commission on Dietetic Registration (CDR) – 28 hours acceptable; and (11) Board Certified/Certification/Certificate Programs approved by the ADA/CDR; and
11. Board Certified/Certification/Certificate Programs approved by the ADA/CDR.

The Board will evaluate applications from providers, or licensees, of certificate programs which are not listed above in order to determine if approval is to be granted or denied.

61-005.05A Criteria: To be approved, a certificate program must meet the following criteria:

1. The objectives must relate to the enhancement of skills/practice of medical nutrition therapy;
2. The program must require that candidates meet eligibility requirements; and
3. The program must require that candidates pass an examination to become initially certified and require certificate holders to pass an examination for recertification in order to remain certified.

61-005.05B Approval: To obtain approval of a certificate program, a licensee or provider must submit a complete application to the Department. A complete application includes all required documentation and written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. The name of the certificate program;
2. The objectives of the program;
3. A course outline of the program; and
4. The name, address, and telephone number of the licensee or provider submitting the application.

61-005.06 Exhibits and Poster Sessions: Board review and pre-approval is not required.

61-005.07 Continuing Approval: Once an application for approval of a continuing competency program/activity has been granted by the Board, reapproval is not required for each occasion on which such program/activity is administered within the biennial renewal period, so long as the program/activity is not changed, or so long as the program/activity requirements are not changed by law.

For each subsequent renewal period and if the program/activity, or any portion of a program/activity is changed within the renewal period, reapplication must be made in accordance with 172 NAC 61-009.02 through 172 NAC 61-009.07.

61-005.08 Prior Approval: To obtain prior approval of continuing competency program/activity(s), a complete application must be received by the Board at least 45 days prior to the date on which the program/activity is to be given. The Board will act within 60 days upon all completed applications for continuing competency approval and will notify the applicant.

61-005.09 Post-Program/Activity Approval: Applications for approval of continuing competency programs/activities may be made after the program/activity has occurred.

61-005.10 Advertisement of Approvals: After the Board has granted its written approval of the application, the provider is entitled to state upon its publications: "This program/activity is approved for _____(number of hours approved) by the Nebraska Board of Medical Nutrition Therapy".

61-005.11 Continuing Competency Certificate of Completion: Each provider of an approved continuing competency program/activity must furnish to each person completing the program/activity a certificate of completion.

1. Each certificate must include the following:
 - a. Program/activity name;
 - b. Name of the participant and his/her license number;
 - c. Provider's name; and
 - d. Number of hours received by the licensee, not to exceed the number of hours granted for the program/activity.
2. Presentation of the certificate constitutes evidence that the person complied with all requirements of the program/activity and completed the program/activity.

61-005.12 Program/Activity Monitoring: The provider must employ a reliable system to monitor the physical presence of participants throughout the entire program/activity. If a participant chooses not to participate in the entire program/activity, the certificate of attendance must reflect the participant's actual hours of attendance.

61-006 RENEWAL: An individual who wants to renew his/her medical nutrition therapy credential must request renewal as specified in 172 NAC 61-006.02. All medical nutrition therapy credentials issued by the Department will expire on September 1, of each odd-numbered year.

61-006.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

61-006.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an

application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#);
 - (c) Form I-94 (Arrival-Departure Record) number; Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) The applicant's telephone number including area code (optional);
 - (5) The applicant's e-mail address (optional); and
 - (6) The applicant's fax number (optional);
 - b. Continuing competency: The individual:
 - (1) Must attest to meeting the continuing competency requirements as specified in 172 NAC 61-004; or
 - (2) May request a waiver of continuing competency requirements as specified in 172 NAC 61-006.03 and 61-006.04; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - b. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - c. Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;

- d. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
- (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and
3. The renewal fee according to 172 NAC 2.

61-006.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 61-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

61-006.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

61-006.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include situations in which the licensee

has been suffering from a serious or disabling illness or physical disability for at least a 30 day period of time which prevented completion of the required number of continuing competency hours during the six (6) months immediately preceding the license renewal date;

61-006.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

61-006.05A The Department/Board will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

61-006.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

61-006.05C Acceptable documentation that the credential holder has met the continuing competency requirements include:

1. Certificates of attendance;
2. Attendance/Sign in-out rosters;
3. Transcripts or grade reports;
4. Letters from sponsors of continuing education verifying attendance; or
5. Similar documentation.

61-006.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

61-006.05E The Department/Board will notify the credential holder upon satisfactory completion of the audit.

61-006.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

61-006.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

61-006.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

61-006.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

61-006.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

61-006.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

61-006.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

61-006.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

61-006.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice medical nutrition therapy expires.

61-006.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 61-009 or such other action as provided in the statutes and regulations governing the credential.

61-006.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of medical nutrition therapy after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 61-009.

61-006.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

61-006.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

61-006.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of medical nutrition therapy, but may represent him/herself as having an inactive credential.

61-006.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 61-009.

61-007 DISCIPLINARY ACTIONS

61-007.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;

7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 61-007.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 61-007.02; or
24. Violation of the Automated Medication Systems Act.

61-007.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:

- a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
 - d. By a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
 4. Cheating on or attempting to subvert the credentialing examination;
 5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
 6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
 7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
 8. Knowingly disclosing confidential information except as otherwise permitted by law;
 9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
 10. Failure to keep and maintain adequate records of treatment or service;
 11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
 12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency:
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
 13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession; and
 14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care.

61-007.03 Temporary Suspension or Limitation

61-007.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director

determines that there is reasonable cause to believe that grounds exist under 172 NAC 61-007.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

61-007.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

61-007.03C A temporary suspension or temporary limitation of a credential under 172 NAC 61-007.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

61-007.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

61-007.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

61-007.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 61-007.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;

2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

61-008 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

61-008.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

61-008.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

61-008.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

61-008.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

61-008.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

61-008.06 Reinstatement following voluntary surrender is set out in 172 NAC 61-009.

61-009 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.

3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

61-009.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter: The applicant must submit to the Department:

1. A written application on a form provided by the Department or constructed by the applicant which must contain the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number;Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Attestation that the continuing competency requirements for renewal have been met;
 - f. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active. If the applicant has been convicted of a felony or misdemeanor, s/he must provide copies of:
 - (a) The court record, which includes charges and disposition;
 - (b) Arrest records;
 - (c) A letter from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of any treatment obtained; and

- (e) A letter from the probation officer addressing probationary conditions and current status if the applicant is currently on probation;
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential the applicant wishes to reinstate was active. If any disciplinary action was taken against the applicant's credential by another state, the applicant must submit a copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
2. Attestation by the applicant:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential; and
3. The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

61-009.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

- 1. Assess an administrative penalty pursuant to 172 NAC 61-010, in which case a separate notice of opportunity for hearing will be sent to the applicant;
- 2. Deny the application to reinstate the credential;
- 3. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
- 4. Reinstate the credential.

61-009.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

- 1. Deny the application for reinstatement of the credential;
- 2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
- 3. Reinstate the credential.

61-009.01C The Department will act within 150 days on all completed applications.

61-009.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

61-009.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 61-009.01.

61-009.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement based on the provisions in the order accepting the voluntary surrender.

The applicant must submit to the Board:

1. A written application on a form provided by the Department or constructed by the applicant, which must contain the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number;Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. If the applicant's credential has expired during the time the credential was suspended, limited, revoked, or voluntarily surrendered, attestation of meeting the continuing competency requirements for renewal;
 - f. A statement of the reason the applicant believes his/her credential should be reinstated;
 - g. Written recommendations from at least two individuals each having personal knowledge of the activities of the applicant since the credential was suspended, limited, revoked, or voluntarily surrendered. Recommendations from household members or relatives are not acceptable;
 - h. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, revoked, or

voluntarily surrendered. If the applicant has been convicted of a felony or misdemeanor, s/he must provide copies of:

- (a) The court record, which includes charges and disposition;
 - (b) Arrest records;
 - (c) A letter from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of any treatment obtained; and
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspension, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential the applicant wishes to reinstate was suspended, limited, revoked, or voluntarily surrendered. If any disciplinary action was taken against the applicant's credential by another state, the applicant must submit a copy of the disciplinary action, including charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant;
2. Attestation by the applicant:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential; and
3. The renewal fee.

61-009.03A If an applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may take one or more of the following actions:

1. Assess an administrative penalty pursuant to 172 NAC 61-010, in which case a separate notice of opportunity for hearing will be sent to the applicant;
2. Deny the application to reinstate the credential;
3. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
4. Reinstate the credential.

61-009.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; or
3. Reinstatement the credential.

61-009.03C The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application. The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

61-009.03D On the basis of the information obtained under 172 NAC 61-009.03C, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

61-009.03E An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

61-009.03F If the Board's decision is to deny the application for reinstatement, notification of the Board's decision will be mailed to the applicant by certified mail. The decision of the Board will become final 30 days after the decision is mailed to the applicant unless the applicant requests a hearing within that 30-day period.

1. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.
2. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
3. Following the hearing, if the Board's decision is denial of the application for reinstatement, the applicant will be notified by certified mail.
4. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

61-009.03G If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

61-009.03H The Director will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary or capricious; and

3. Enter an order setting forth the decision regarding reinstatement of the applicant's credential. The order will be sent to the applicant by certified mail.

61-009.031 The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

61-010 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

61-010.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

61-010.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of

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payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; and

- e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

61-010.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

61-011 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

THESE AMENDED RULES AND REGULATIONS Replace Title 172 Chapter 61 Regulations Relating to the Practice of Medical Nutrition Therapy, effective December 5, 2004.

Approved by the Attorney General: October 27, 2008
Approved by the Governor: December 5, 2008
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APRIL 11, 2015

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 67

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 67 LICENSURE OF FUNERAL DIRECTORS AND EMBALMERS

67-001 SCOPE AND AUTHORITY: These regulations govern the licensure of funeral directors and embalmers under the Funeral Directing and Embalming Practice Act and the Uniform Credentialing Act. Persons providing funeral directing and embalming services to clients located in Nebraska must be licensed as a funeral director and embalmer in Nebraska unless they are exempt under the Act.

67-002 DEFINITIONS: For purposes of these regulations, definitions in the Uniform Credentialing Act and the Funeral Directing and Embalming Practice Act and the following definitions are hereby adopted.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Licensure in another jurisdiction means holding a credential that authorizes the individual to engage in the profession of funeral directing and embalming which would otherwise be unlawful, from the District of Columbia or any state, territory, or possession of the United States of America, or any province of Canada.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

Served in the regular armed forces has the same meaning as “military service” in these regulations.

67-003 INITIAL AND RECIPROCITY LICENSE: To receive a license, an individual must submit a complete application, pay the appropriate fee, and meet the following:

67-003.01 Age and Good Character: Be at least 19 years old and of good character;

67-003.02 Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;

67-003.03 General Education: Have earned the equivalent of 60 semester hours of college credit, which includes:

- a. 6 semester hours of English;
- b. 6 semester hours of accounting;
- c. 8 semester hours of chemistry;
- d. 12 semester hours of biological science relating to the human body; and
- e. 6 semester hours of psychology or counseling;

Reciprocity: For reciprocity an applicant must have the following:

1. Education/Practice: Earned the equivalent of 60 semester hours of college credit and either coursework as listed in 172 NAC 67-003.03 or practice as follows:
 - a. At least 5 years of practice as a licensed or certified Funeral Director and Embalmer in another state. A year of apprenticeship does not constitute licensure or certification in this case. It must be 5 years of practice beyond the year of apprenticeship; and
2. Continuing Education: Completed at least 16 hours of funeral directing and embalming continuing education within the previous 24 months immediately prior to application;

67-003.04 Mortuary Science Education: Have completed a full course of instruction in an accredited school of mortuary science. Hours earned in a school of mortuary science as part of the mortuary program may not be used for the 60 semester hours;

67-003.05 Apprenticeship: Have completed a 12-month apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. The apprenticeship must:

- a. Be registered with the Department prior to the start date;
- b. Be completed in one of the following ways:
 - (1) 6 months split as specified in 172 NAC 67-004.01 or
 - (2) Full 12 months; and

- c. Consist of arterially embalming 25 bodies and assisting with 25 funerals.

Reciprocity: Have completed 1 year of funeral directing and embalming practice following licensure/certification in another jurisdiction is deemed equivalent to a 12-month apprenticeship.

67-003.06 Examination: Have successfully passed the national standardized examination developed and administered by The International Conference of Funeral Service Examining Boards, the Nebraska jurisprudence examination and Nebraska vital statistic forms examination with a score of 75% or above on each examination.

67-003.07 Denied or Withdrawn Applications

67-003.07A Denied Applications: An applicant for a funeral directing and embalming license whose application is denied by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department. Any examination fee will not be returned.

67-003.07B Withdrawn Applications: An applicant for a funeral directing and embalming license may request to withdraw the application. A request to withdraw an application will be granted:

1. When the application is incomplete; or
2. When the request for withdrawal is received within five business days of the receipt of a completed application.

If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

67-004 APPRENTICE LICENSE: Individuals applying for an initial license as a Funeral Director and Embalmer must complete an apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. Apprenticeships must be served in the State of Nebraska in a licensed Funeral Establishment and the first 25 funeral assists and 25 embalmings must be completed under direct onsite supervision of the supervising funeral director and embalmer.

Applicants may complete the 12 months apprenticeship in either a split apprenticeship or a full apprenticeship. Before beginning an apprenticeship, an individual must apply and be approved by the Department for apprentice licensure.

67-004.01 Types of Apprenticeship:

1. 12-Month Full Apprenticeship. An applicant may serve a 12-month full apprenticeship by serving over a continuous 12-month period following the successful completion of a full course of study in an accredited school of mortuary science and the successful passage of the licensing examination. Licensure will

be for 12 months from the date of issuance, must be completed over a continuous 12-month period and will not be extended by the Board.

2. 12-month Split Apprenticeship. An applicant may serve a 12-month split apprenticeship by serving 6 months prior to attending a school of mortuary science and serving the remaining 6 months after graduation from a school of mortuary science. Licensure will be for 6 months from the date of issuance, must be completed over a continuous 6-month period and will not be extended by the Board.

67-004.02 License: To receive an apprentice license, an individual must submit a complete application, pay the appropriate fee, and meet the following:

67-004.02A Age and Good Character: Be at least 19 years old and of good character;

67-004.02B Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;

67-004.02C General Education: Have completed at least 39 of the 60 semester hours of college credit, as specified in 172 NAC 67-003.03;

67-004.02D Mortuary Science Education and Examination: If requesting a 12-Month apprenticeship or the final 6-month apprenticeship:

1. Have completed a full course of instruction in an accredited school of mortuary science; and
2. Have successfully completed the licensing examination.

Items 1 and 2 above do not apply when requesting the first 6-Months of a split apprenticeship; and

67-004.02EF Supervisor: Have a supervisor who is licensed and practicing as a funeral director and embalmer in Nebraska.

67-004.03 Change in Supervisor: An individual who changes his/her supervisor or adds a new supervisor must submit a complete application to the Department within 30 days following the change. A complete application includes all required documentation and a written application.

67-004.04 Denied or Withdrawn Applications

1. Denied Applications: An applicant for an apprentice license whose application is denied by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

2. Withdrawn Applications: An applicant for apprentice license may request to withdraw the application. A request to withdraw an application will be granted:
- a. When the application is incomplete; or
 - b. When the request for withdrawal is received within five business days of the receipt of a completed application.

If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

67-005 EXAMINATIONS

67-005.01 Jurisprudence and Vital Statistics Forms Examination:

67-005.01A Eligibility: To be eligible to take the jurisprudence examination and vital statistics forms examination, an applicant must:

1. Have received written notification from the Department approving a 12-month apprenticeship license; or
2. Have received written notification from the Department approving a final 6-month apprenticeship license; or
3. Meet the requirements for licensing by reciprocity as specified in 172 NAC 67-003.

67-005.01B Examination Registration: To register for the jurisprudence examination and vital statistics forms examination, the applicant must submit a complete application to the Department.

67-005.01C Special Accommodations: If special accommodations are requested, such request may be submitted on a form provided by the Department. If the applicant has a learning disability, a psychological disability, or hidden disability that requires an accommodation in testing, an originally signed and dated document must be submitted from an appropriate professional (education professional, doctor, psychologist, psychiatrist) verifying the applicant's disabling condition which requires special accommodations.

67-006 RENEWAL: An individual who wants to renew his/her license to practice as a funeral director, embalmer or funeral director and embalmer must, prior to the expiration date, file an application for renewal, pay the fee, and demonstrate compliance with continuing education requirements.

67-006.01 Continuing Education: On or before February 1st of each even-numbered year, each Funeral Director, Embalmer or Funeral Director and Embalmer holding an active license in the State of Nebraska must:

1. Complete at least 16 hours of acceptable continuing education hours during the preceding 24-month period. A licensee may carry-over up to 4 hours earned beyond the 16 hours for the next renewal period.
2. Take the Nebraska Jurisprudence Examination at least 1 time every 10 years.

67-006.01A Continuing Education Hour/Credit Calculations. The following provides the hour/credit calculations:

1. Academic Credit: All 16 hours of continuing education hours per a biennial renewal period may be obtained through academic credit; hours are calculated as follows:
 - a. 1 semester hour of academic credit equals 15 continuing education hours; and
 - b. 1 quarter hour of academic credit equals 10 continuing education hours;
2. Home Study/Internet/Other Electronic Means: A maximum of 8 hours of continuing education hours per a biennial renewal period may be obtained through home study programs.
3. Continuing Education Workshops: All 16 hours of continuing education hours per a biennial renewal period may be obtained through continuing education workshops, lectures, or interactive satellite/web workshops. 60 minutes of participation equals 1 continuing education hour. Credit will not be awarded for breaks and meals.
4. Jurisprudence Examination: 4 hours of continuing education hours will be granted for licensees receiving a score of 75% or above on the jurisprudence examination. A licensee must take the jurisprudence examination at least 1 time every 10 years.
5. Tours: A maximum of 2 hours of continuing education credit per a biennial renewal period may be obtained through a funeral directing and embalming related tour. Conducting a tour of the licensee's facility does not constitute continuing education. 60 minutes of tour participation equals 1 continuing education credit.
6. Exhibits/Displays: A maximum of 2 hours of continuing education hours per a biennial renewal period may be obtained through a funeral directing and embalming related exhibit/display. If a continuing education workshop provides an exhibit or display area, a licensee may earn 1 continuing education credit per workshop for viewing the exhibits/displays.

7. District/State/National Association Meetings: A maximum of 8 hours of continuing education hours per a biennial renewal period may be obtained through attendance at a District, State, or National Association Business Meeting. 60 minutes of participation constitutes 1 continuing education credit. Only 1 hour may be obtained per meeting.

67-006.01B Acceptable Continuing Education Topic Areas: The Board does not approve continuing education programs/activities. In order for a continuing education activity/program to be accepted for renewal or reinstatement of a license, the activity must include one or a combination of the following topic areas:

1. Communication/Media;
2. Counseling/Arbitration;
3. Customer relations;
4. Disaster training;
5. Embalming practice;
6. Funeral directing practice;
7. Management (stress/personnel/business);
8. Marketing/advertising;
9. Personal development; or
10. Pre-need.

67-006.01C Continuing Education Workshop/Program Criteria: To be considered acceptable for continuing education, a workshop/program must meet the following criteria:

1. Be at least 60 minutes in duration;
2. Objectives must relate to the topic areas defined in 172 NAC 67-006.01B;
3. Presenters of programs must be qualified by education, experience or training;
4. Must be open to all Funeral Directors and Embalmers licensed by Nebraska who meet the pre-requisites for the program; and
5. The provider must have a process for verifying attendance and issue a certificate of attendance. Each certificate must include the following:
 - a. Program name;
 - b. Name of the participant and his or her license number;
 - c. Provider's name;
 - d. Date the program began and ended; and
 - e. Number of hours received by the licensee.

67-006.01D Criteria for a Home Study Program/Internet/Other Electronic Means: To be considered acceptable, a home study program must meet the following criteria:

1. Objectives must relate to the topic areas defined in 172 NAC 67-006.01B;
2. Author(s) of home study programs must meet the following qualifications:
 - a. Have experience in the content and subject matter;
 - b. Have expertise in teaching and instructional methods suitable to subject presented; and
 - c. Have suitable academic qualifications, certification credentials, and/or experience for subject presented; and
3. Must be a post-test or other method of assessment which verifies that the licensee completed the program.

67-006.02 Waivers of Continuing Education:

67-006.02A Military Service

1. Licensees actively engaged in military service are not required to pay the renewal fee.
2. The Department may waive continuing competency requirements if a licensee has served in the regular armed forces of the U.S. during part of the credentialing period immediately preceding the renewal date.

67-006.02B First Licensed: The Department waives continuing education requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

67-006.02C Medical: The Department may waive continuing education for individuals who have had a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date.

67-006.03 Inactive Status: When an individual wants to have his/her license placed on inactive status, s/he must notify the Department in writing. There is no fee to have a license placed on inactive status and continuing education is not required.

67-007 DISCIPLINARY ACTION

67-007.01 Grounds for Discipline: A funeral directing, embalming or funeral directing and embalming license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. §§ 38-178, 38-1423 and 38-1424 or for unprofessional conduct.

67-007.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of funeral directing and embalming or the ethics of the profession, regardless of whether a person,

patient, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to the acts set out in Neb. Rev. Stat. § 38-179 and the following:

1. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;

67-008 REINSTATEMENT: This section applies to individuals previously licensed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska license. Individuals may apply for reinstatement as follows:

1. An individual whose license has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose license has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose license has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose license has been permanently voluntarily surrendered is not eligible for reinstatement and may not reapply for a new credential of the same license type.

The voluntary surrender of a license may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

67-009 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

EFFECTIVE
APRIL 11, 2015

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 68

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 68 LICENSURE OF FUNERAL ESTABLISHMENTS AND BRANCH
ESTABLISHMENTS

68-001 SCOPE AND AUTHORITY: These regulations govern the licensure of funeral establishments and branch establishments under the Funeral Directing and Embalming Practice Act and the Uniform Credentialing Act.

68-002 DEFINITIONS: For purposes of these regulations, definitions in the Uniform Credentialing Act and the Funeral Directing and Embalming Practice Act and the following definitions are hereby adopted.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

68-003 ESTABLISHMENT LICENSE: Any person who wishes to operate a branch establishment or Funeral Establishment must obtain an establishment license.

Funeral establishments may be licensed for one or a combination of the following services:

1. The care and preparation of dead human bodies for burial, disposition, or cremation;
2. Conducting funeral services for dead human bodies; or
3. Arranging funeral services for dead human bodies.

Branch establishments may be licensed if they are a subsidiary of a licensed funeral establishment and must include an area where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted and must include at least one or a combination of the following rooms/areas:

1. A casket display room; or
2. A viewing area; or
3. An area for conducting funeral services.

68-003.01 Qualifications: To receive a license, an individual must submit a complete application, pay the appropriate fee, and meet the following:

1. Manager License: The proposed manager must have a current active Nebraska Funeral Director's or Funeral Director and Embalmer's license;
2. Good Character: The proposed manager must have good character;
3. Citizenship/Lawful Presence: The manager and owner, if the owner is a sole proprietor, must be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a license under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a license under the Uniform Credentialing Act; and
4. Self-Evaluation: Complete a self-evaluation inspection report showing compliance with 172 NAC 68-008 and, if applicable, 172 NAC 68-009; and

68-003.02 Branch Establishment: If the application is for a branch establishment, the branch establishment must be a subsidiary of a licensed funeral establishment.

68-003.03 Denied or Withdrawn Applications

68-003.03A Denied Applications: An applicant for a funeral establishment or branch establishment license whose application is denied by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

68-003.03B Withdrawn Applications: An applicant for a funeral establishment or branch establishment license may request to withdraw the application. A request to withdraw an application will be granted:

1. When the application is incomplete; or
2. When the request for withdrawal is received within five business days of the receipt of a completed application.

If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

68-003.04 License Not Transferable: A license is issued only for the premises and manager named in the application and is not transferable or assignable.

68-003.05 License Display: The establishment license must be conspicuously displayed in the branch establishment and/or funeral establishment.

68-003.06 Establishment Manager Responsibilities: The designated manager is responsible for all transactions conducted at the establishment, in compliance with the statutes, rules and regulations relating to funeral directing and embalming and establishments.

68-004 AMENDED LICENSE FOR EXISTING ESTABLISHMENTS. An establishment license is issued only for the premises, the owner and manager named in the application and is not transferable or assignable. An establishment may amend its license as follows:

68-004.01 Change in Establishment Manager: The applicant must apply to the Department for and obtain another license at least 15 days prior to the change in manager and submit the required fee for a reissued license.

In the event of an immediate termination of a manager or in the event of the death of the manager, the application for a change in manager must be submitted to the Department within 5 days following notification of termination or death of the manager. During this period of time, the establishment may operate as long as a licensed funeral director and embalmer is providing funeral directing and embalming services in accordance with the Funeral Directing and Embalming Practice Act and Rules and Regulations 172 NAC 67 and 172 NAC 68. Such exception terminates after the 5-day period.

68-004.02 Change in Establishment Name: The applicant must apply to the Department for and obtain another license at least 30 days prior to the change in name and submit the required fee for a reissued license.

68-004.03 Change in Owner: The applicant must apply to the Department for and obtain another license at least 15 days prior to the change in owner and submit the required fee for a reissued license.

68-004.04 Change of Establishment Location: The applicant must apply to the Department for and obtain another license as specified in 172 NAC 68-003 at least 30 days prior to the change.

68-004.05 Change in Services Provided - Adding a Preparation Room: For establishments that have been licensed without a preparation room and wish to add a preparation room for the care and preparation of a dead human bodies for burial, disposition or cremation, the applicant must:

1. Notify the Department of the establishment's intent to have a preparation room; and
2. Have received a successful inspection rating within 30 days of the anticipated change in services.

68-005 ORGANIZED OR SCHEDULED FUNERAL SERVICES AND AUTHORIZED SERVICES
BY UNLICENSED PERSONS AND STUDENTS IN MORTUARY SCHOOLS:

1. A licensed funeral director and embalmer must be present at each organized or scheduled funeral service (including a wake where an organized service is conducted or a religious service), burial and interment, whenever a dead human body is present. No person who is not licensed as a funeral director and embalmer or serving as an apprentice can embalm dead human bodies for burial or cremation.

Persons, who are not licensed as funeral directors and embalmers, may assist in implementing arrangements made by a licensed funeral director and embalmer as long as they are under his/her supervision and responsibility.

These activities include:

- a. Driving/maintenance of funeral vehicles and facilities;
 - b. Administrative duties;
 - c. Applying cosmetics;
 - d. Arranging or shampooing the hair of the deceased;
 - e. Ceremonial assistance (such as bathing, clothing/dressing and casketing the deceased body) and;
 - f. Religious services pursuant to 68-005, item 1.
2. Persons may, at the direction of a licensed funeral director and embalmer, make first calls or removals of dead human bodies. Exception: Instances in which removals are performed by public authorities in emergency situations.
 3. A student may participate in a student practicum/internship in a licensed funeral establishment in Nebraska, if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student may assist with funeral directing and embalming services when the student is in a recognized practicum/internship, under the supervision of the school of mortuary science, and under the direct on-site supervision and responsibility of a Nebraska licensed funeral director and embalmer.

68-006 TRANSPORTATION AND FINAL DISPOSITION OF DEAD HUMAN BODIES

68-006.01 Communicable Disease: Persons who have died due to communicable diseases listed in 173 NAC 1-004.01 must be completely wrapped before removal from the premises. Bodies dead of such communicable diseases must be:

1. Thoroughly and promptly embalmed and be held in isolation from the public for a period of 24 hours following the embalming; or
2. Encased immediately after death in a body transfer case or shipping case that is constructed out of 20 gauge steel and is hermetically sealed, and under no condition will the body be removed from the container; or

3. Cremated immediately. If visitation is to occur prior to cremation, the body must be thoroughly and promptly embalmed and held in isolation from the public for a period of 24 hours following the embalming.

This rule does not prohibit a public funeral, nor does it relieve persons who are quarantined as contacts from quarantine requirements.

Persons who have died due to a communicable disease other than those listed in 173 NAC 1-004.01 require no further special handling.

68-006.02 Out-of-State Transportation: In case a body is to be transported out of the state of Nebraska, the Nebraska Funeral Director and Embalmer in charge of the body must determine the regulations governing the transportation of bodies in the other state, or states, and must comply fully with the requirements of such regulations, must oversee the removal while the body is in Nebraska, and must comply with the requirements under 172 NAC 68, and with the Interstate Commerce Commission's requirements for transportation by common carrier.

68-006.03 In-State Transportation of Bodies

1. Un-Embalmed Bodies:
 - a. Dead human bodies, which have not been embalmed, must not be transported by common carrier. Transportation may be made by privately owned conveyance under the supervision and responsibility of a licensed Funeral Director.
 - b. In the event the body is placed immediately after death in a body transfer case or shipping case that is constructed out of 20 gauge steel and is hermetically sealed, the body may be transported, in the same manner as an embalmed body.
2. Embalmed Bodies: There are no additional restrictions to the transportation of embalmed bodies other than those contained in the existing Nebraska statutes, provided the body is embalmed by arterial and cavity injection using current accepted practices and chemicals.
 - a. Exception: In the event the remains are to be sent to the State Anatomical Board, cavity work should be avoided when possible.

68-006.04 General Rules Relating to Embalmed Bodies, Un-Embalmed Bodies and Final Disposition of Dead Human Bodies.

68-006.04A Un-Embalmed Body: An un-embalmed body may be retained in storage at a constant temperature of less than 40 degrees Fahrenheit for not more than 96 hours from receipt of the deceased body. An un-embalmed body may be retained in storage beyond the 96 hours if:

1. Written notification of a criminal proceeding is received; or
2. Upon receipt of a court order.

When such a body is removed from storage it must be embalmed, buried, or cremated within 24 hours following the removal from storage.

68-006.04B Embalmed: Final disposition of a dead human body, which has been embalmed, must be made within 30 days after death. If death did not occur in Nebraska, final disposition of a dead human body must be made within 30 days after receipt of the dead human body.

1. Exception: If unforeseen circumstances occur which would prevent final disposition of a dead human body within the required 30 days after death, the license holder must request special permission from the Director of the Division of Public Health to extend the final disposition date.
 - a. To attain special permission, the license holder must submit a written request to the Division, stating the following:
 - i. Name of Funeral Establishment and license holder overseeing the final disposition;
 - ii. Name of the deceased;
 - iii. Date of death of the deceased; and
 - iv. An explanation of the basis for extending the final disposition, such as but not limited to: family dispute, criminal investigation, military burial, shipments outside of the United States, or similar acts.
 - b. The Director may authorize an extension of the required final disposition date of a dead human body up to 30 days. If final disposition has not occurred by the ending date of the extension, the license holder must seek court action regarding final disposition of the decedent's remains.

68-007 FUNERAL ESTABLISHMENT AND BRANCH ESTABLISHMENT INSPECTIONS: All establishments will receive an initial and thereafter a routine inspection. The inspection will include compliance with 172 NAC 68-008.

68-007.01 Initial Self-Evaluation Inspection: Under 172 NAC 68-003, the applicant must conduct a self-evaluation inspection prior to the proposed opening date of the establishment.

68-007.02 Initial On-Site Inspection: The Department will conduct an on-site unannounced inspection within 90 days following issuance of an initial establishment license.

68-007.03 Timing of Inspections: The Department may conduct an on-site unannounced inspection at any time it deems necessary.

68-007.04 Focused Selection Inspections: The Department may conduct an unannounced inspection of an establishment when the Department is informed of one or more of the following:

1. The passage of 6 years without an inspection;
2. A complaint alleging a violation of statutes and/or regulations relating to funeral establishments and branch establishments;
3. Change of services or location; and
4. Any other event that raises concerns about the maintenance or management of the establishment.

68-008 FUNERAL ESTABLISHMENT REQUIRED DOCUMENTS, PHYSICAL STRUCTURE AND EQUIPMENT/SUPPLIES: A funeral establishment must have the following:

68-008.01 Documents: Documents must be posted and/or available as follows:

1. The current license of the funeral establishment must be conspicuously displayed;
2. The current license of the manager and all licensed embalmers, registered apprentices, licensed funeral directors and licensed funeral directors and embalmers employed by the funeral establishment must be conspicuously displayed;
3. A sign which displays the name of the current or proposed funeral establishment. The sign must be located on or at the front of the building in a position where it clearly is visible and legible from the outside of the building, or provide documentation that it is on order; and
4. Copies of written statements containing a list of principal services and furnishings to be supplied by the funeral director or funeral director and embalmer for the preparation and burial or cremation of a deceased body (i.e., general price list).

68-008.02 Physical Structure: The physical structure must be maintained to ensure safety of the public and to ensure compliance with the equipment and sanitation requirements.

1. Conducting Funeral Services: If services will include conducting funeral services for dead human bodies, the funeral establishment must have:
 - a. Room(s) for:
 - (1) Counseling families or next of kin;

- (2) Conducting the funeral service; and
- (3) Viewing the deceased.

The room(s) must have floor to ceiling walls on all sides, and must be either a part of the funeral establishment or located at a licensed branch establishment, which is within a reasonable distance of the funeral establishment. The room(s):

- (1) Must have space for public seating;
 - (2) Must have space for viewing the deceased body; and
 - (3) May have an adjacent area for cosmetic services and dressing of the deceased body for viewing purposes.
- b. A casket selection area, which has either a catalogue or electronic media for ordering caskets, or has sample caskets displayed.
 - c. Motor vehicles, such as, but not limited to: funeral coach, sedans and vans.
 - d. A general price list (GPL).
2. Preparation for Final Disposition: If services include the care and preparation for burial, disposition or cremation, the funeral establishment must include:
- a. A preparation room for preparing dead human bodies for burial or other final disposition which has floor to ceiling walls on all sides. The preparation room must be clean and sanitary and contain at a minimum the following:
 - (1) Flooring and walls that are cleanable, such as tile or other suitable hard surface;
 - (2) Adequate drainage, lighting and ventilation;
 - (3) At least one sink with running water;
 - (4) At least one service sink or floor drain for use of drainage from the embalming table and for use with the aspirator;
 - (5) Fully closing doors;
 - (6) The following instruments and supplies with ample storage thereof:
 - (a) Head covers;
 - (b) Shoe covers;
 - (c) Goggles;
 - (d) Masks;
 - (e) Heavy duty or surgical gloves;
 - (f) Disinfectant spray;
 - (g) Adequate materials for use with contagious diseases (contagious disease kit);
 - (h) Embalming Gown with sleeves;

- (i) Porcelain or stainless steel embalming table;
- (j) Embalming machine;
- (k) Hydro or electrical aspirator with arterial tubes and drain tubes;
- (l) Pair of spring forceps;
- (m) Aneurysm needles;
- (n) Pair of scissors;
- (o) Different sizes of suture needles;
- (p) Scalpel with extra blades;
- (q) Razor with extra blades;
- (r) Trocar with suitable length of hose;
- (s) Cavity Fluid Injector;
- (t) Sanitary and medical waste container;
- (u) Arm and head supports; and
- (v) Cavity, special and arterial fluids.

68-008.02A Materials or supplies which come in contact with a dead human body must not be used more than once without being first completely cleansed, disinfected, and then laundered.

68-008.02B Bandages, cotton, and other waste materials must be destroyed or placed in the bio-waste receptacle for removal by a waste removal service immediately at the conclusion of each case to the end that all disease-producing organisms are destroyed and the public health thereby protected.

68-008.02C All equipment within a motor vehicle used for the transportation of deceased persons, which comes in contact with a deceased person, must be thoroughly disinfected immediately at the conclusion of each instance of transportation to the end that all disease producing organisms are destroyed and the public health thereby protected.

68-009 BRANCH ESTABLISHMENT REQUIRED DOCUMENTS, PHYSICAL STRUCTURE AND CASKET SELECTION AREA. A branch establishment must have the following:

68-009.01 Documents: Documents must be posted and/or available as follows:

1. The current license of the funeral establishment must be conspicuously displayed;
2. The current license of the manager and all licensed funeral directors and licensed funeral directors and embalmers employed by the funeral establishment must be conspicuously displayed;
3. A sign which displays the name of the current or proposed branch establishment. The sign must be located on or at the front of the building in such a position where it clearly is visible and legible from the outside of the building, or provide documentation that it is on order; and

4. If funeral arrangements are made at the branch location, copies of written statements containing a list of principal services and furnishings to be supplied by the funeral director or funeral director and embalmer for the preparation and burial or cremation of a deceased body (i.e., general price list).

68-009.02 Physical Structure: The physical structure must be maintained to ensure safety of the public and compliance with the equipment and sanitation requirements. The physical structure must have:

1. Adequate ventilation;
2. Adequate lighting to maintain public safety; and
3. If viewing of the deceased body is provided at the branch location, the viewing room(s) must have floor to ceiling walls on all sides;

68-009.03 Casket Selection Area: If the branch establishment has a casket selection area, the area may include a catalogue or electronic media for ordering caskets or have sample caskets displayed.

68-010 CLOSING AN ESTABLISHMENT: When an establishment manager anticipates closing an establishment, the Department must be notified in writing of the closing date. The Department will then change its records to reflect the current status of the establishment.

The establishment must retain its pre-need records in compliance with the Burial Pre-Need Sale Act and upon closing the establishment, it must forward said records to another funeral establishment in Nebraska. The establishment must remove all signage relating to the name of the funeral establishment or branch establishment upon its closing.

68-011 RENEWAL An individual who wants to renew his/her license to operate as a funeral establishment or branch establishment must, prior to the expiration date of February 1, of even-numbered years, file an application for renewal and pay the fee.

68-012 DISCIPLINARY ACTION

68-012.01 Grounds for Discipline: A branch establishment or funeral establishment license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. §§ 38-182, 38-1423 or 38-1424 and the following:

1. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department.

68-013 REAPPLICATION: This section applies to establishments previously credentialed in Nebraska who seek the authority to return to operation in Nebraska with a valid Nebraska license.

1. An establishment whose license has expired, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons may apply at any time to the Department for and obtain another license as specified in 172 NAC 68-003.
2. An establishment whose license has been voluntarily surrendered for a definite period may apply after that period of time has elapsed, to the Department for and obtain another license as specified in 172 NAC 68-003.
3. An establishment whose license has been revoked may apply for another license, only after a period of two years has elapsed from the date of revocation, to the Department for and obtain another license as specified in 172 NAC 68-003.
4. An individual whose license has been permanently voluntarily surrendered may not apply for another license.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

68-014 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

EFFECTIVE
5/4/14

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 69

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 69

CREMATORIES

69-001 SCOPE AND AUTHORITY: These regulations govern the licensing of Crematories under Neb. Rev. Stat. §§ 71-1355 to 71-1385.

69-002 DEFINITIONS

1. Alternative Container means a container in which human remains are placed in a cremation chamber for cremation.
2. Attest or Attestation means that the individual declares that all statements on the application are true and complete.
3. Authorizing Agent means a person vested with the right to control the disposition of human remains pursuant to Neb. Rev. Stat. § 38-1425.
4. Body parts means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion of bodies that have been donated to science for medical research purposes.
5. Casket means a rigid container made of wood, metal, or other similar material, ornamented and lined with fabric, which is designed for the encasement of human remains.
6. Change of Crematory Authority means a transfer of more than 50% of the stock or assets of a crematory authority.
7. Closed Container means any container in which cremated remains can be placed and closed in a manner so as to prevent leakage or spillage of the remains or the entrance of foreign material.
8. Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

9. Cremated Remains means the residue of human remains recovered after cremation and the processing of such remains by pulverization, leaving only bone fragments reduced to unidentifiable dimensions, and the unrecoverable residue of any foreign matter, such as eyeglasses, bridgework, or other similar material, that was cremated with the human remains.
10. Cremated Remains Receipt Form means a form provided by a crematory authority to an authorizing agent or his or her representative that identifies cremated remains and the person authorized to receive such remains.
11. Cremation means the technical process that uses heat and evaporation to reduce human remains to bone fragments.
12. Cremation Chamber means the enclosed space within which a cremation takes place. A cremation chamber is also referred to as a retort.
13. Crematory means a building or portion of a building which contains a cremation chamber and holding facility.
14. Crematory Authority means the legal entity subject to licensure by the Department to maintain and operate a crematory and perform cremation.
15. Crematory Operator means a person who is responsible for the operation of a crematory.
16. Delivery Receipt Form means a form provided by a funeral establishment to a crematory authority to document the receipt of human remains by such authority for the purpose of cremation.
17. Department means the Division of Public Health of the Department of Health and Human Services.
18. Director means the Director of Public Health of the Division of Public Health or his or her designee.
19. Funeral Director means a person licensed under section 38-1414 or an employee of such a person with responsibility for transport or handling of a deceased human.
20. Funeral Establishment means a place of business situated at a specific street address or location devoted to the care and preparation of dead human bodies for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies.
21. Holding Facility means the area of a crematory designated for the retention of human remains prior to cremation and includes a refrigerated facility.

22. Human Remains means the body of a deceased person, or a human body part, in any stage of decomposition and includes limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research.
23. Permanent Container means a receptacle made of durable material for the long-term placement of cremated remains.
24. Pulverization means the reduction of identifiable bone fragments after the completion of the cremation and processing to granulated particles by manual or mechanical means.
25. Temporary Container means a receptacle made of cardboard, plastic, or other similar material in which cremated remains are placed prior to the placement of such remains in an urn or other permanent container.

69-003 CREMATORY LICENSE: Any crematory authority who wishes to operate a crematory must obtain a license.

69-003.01 Qualifications: To receive a license to operate a crematory, the crematory authority must meet the following qualifications:

1. Conform to all building codes and environmental regulations;
2. Be constructed at a location consistent with applicable zoning and environmental regulations;
3. Provide a certificate confirming the crematory operator has attended a training course provided by the Cremation Association of North America or by the manufacturer of the cremation chamber maintained and operated by the crematory authority;
4. Provide affirmative evidence of the applicant's ability to comply with the operational and physical plant standards contained in 172 NAC 69-006 and 172 NAC 69-007;
5. Complete a self-evaluation inspection report showing compliance with 172 NAC 69-005.01.

69-003.02 Application: To apply for a license to operate a crematory, a crematory authority must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Information:
 - (1) The full name and address of the crematory to be licensed;
 - (2) The name of the crematory operator;
 - (3) The full name and address of the crematory authority of the crematory;
 - (4) The Social Security Number of the crematory authority if the applicant is a sole proprietorship;
 - (5) Telephone number including area code (optional);
 - (6) E-Mail Address (optional);
 - (7) Fax Number (optional);
 - (8) Signature of:
 - (a) The crematory authority or crematory authorities if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (b) Two of its members if the applicant is a limited liability company that has more than one member;
 - (c) Two of its officers if the applicant is a corporation;
 - (d) The head of the governmental unit having jurisdiction over the crematory if the applicant is a governmental unit; or
 - (e) If the applicant is not an entity described in items (a) through (d), the crematory authority or crematory authorities or, if there is no crematory authority, the chief executive officer or comparable official;
 - (9) The planned opening date of the crematory;
 - b. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) If the applicant is a sole proprietorship, that s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;

- c. Signature of:
- (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (2) Two of its members if the applicant is a limited liability company that has more than one member;
 - (3) Two of its officers if the applicant is a corporation;
 - (4) The head of the governmental unit having jurisdiction over the crematory if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in items (1) through (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official;
2. Documentation: The applicant must submit the following documentation with the application:
- a. Copies of zoning approval from the relevant jurisdiction;
 - b. A certificate confirming the crematory operator has attended a training course provided by the Cremation Association of North American or by the manufacturer of the cremation chamber maintained and operated by the crematory authority; and
 - c. A copy of the completed self-inspection report;
 - d. If the applicant is a sole proprietorship, that s/he is a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act, for the purposes of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. Evidence may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;

- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record); and

3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

69-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial licensing.

69-003.04 Denial of Initial License: If an applicant for an initial license to operate a crematory does not meet all of the requirements for the license or if the applicant is found to have done any of the grounds listed in 172 NAC 69-009 or 69-010, the Department will deny issuance of a license. To deny a license, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within the 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

69-003.05 Withdrawn Applications: An applicant for a crematory who withdraws his/her application or whose application is rejected by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department. If the inspection has been completed prior to the withdrawal of the application or denial of the application, the entire license fee will be retained.

69-003.06 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

69-003.07 Provisional License: A provisional license may be issued to a crematory authority that substantially complies with the requirements for licensure under 172 NAC 69-003. If a provisional license is issued, it will be valid for a period of up to one year, may not be renewed, and may be converted to a regular license upon showing that the crematory authority fully complies with all requirements under 172 NAC 69-003.

69-004 GENERAL REQUIREMENTS

69-004.01 Effective Date and Term of License: A crematory license expires five years after the date of issuance.

69-004.02 License Not Transferable: A license is issued only for the premises and persons named in the application and is not transferable or assignable. If there is a change of crematory authority and the crematory remains on the same premises, the inspection in 172 NAC 69-005 is not required. If a crematory changes premises, it must pass the inspection specified in 172 NAC 69-005.

69-004.03 Change of Crematory Authority: The licensee must submit an application to Department within 30 days of the designated date of a change in crematory authority. The application must be accompanied by the fee found in 172 NAC 69-014.

69-004.04 Change in Location: The licensee must submit an application to the Department at least 30 days prior to the designated date of a change in location. The application must be accompanied by the fee found in 172 NAC 69-014.

69-004.05 Change in Name: The licensee must submit an application to the Department at least 30 days prior to the change in name. The application must be accompanied by the fee found in 172 NAC 69-014.

69-004.06 Address Information: Each license holder must notify the Department of any change to the address of record.

69-004.07 Information Available to Public: The licensee must make available for public inspection, upon request, licenses, license record information, and inspection reports. This information may be displayed on the licensed premises.

69-004.08 License Display: The crematory license must be conspicuously displayed in the crematory.

69-005 INSPECTIONS: All crematories will receive an initial and thereafter, a renewal inspection. The criteria for inspection required by the Department are set forth below.

69-005.01 Initial Self-Evaluation Inspection: Pursuant to 172 NAC 69-003, the applicant must conduct a self-evaluation inspection prior to the proposed opening date of the crematory.

69-005.02 Initial On-Site Inspection: The Department or its agent will conduct an on-site unannounced inspection within 180 days following issuance of an initial crematory license. The inspections are limited to ascertaining whether:

1. All persons providing cremation services on the premises are properly trained;
2. The equipment and sanitation requirements in 172 NAC 69-006 are met; and
3. The physical structure requirements in 172 NAC 69-006 are met.

69-005.03 Initial Inspection Rating

69-005.03A The Department or its agent will issue a rating of "Satisfactory" on all initial inspections when the crematory receives an overall inspection rating of 100 percent. The Department or its agent will issue an inspection report and provide a copy of the report to the crematory authority within 10 working days after the completion of the inspection.

69-005.03B The Department or its agent will issue a rating of "Unsatisfactory" on all initial inspections when the crematory receives an overall inspection rating of less than 100 percent.

1. The Department or its agent will issue an inspection report and provide a copy of the report to the crematory authority within 10 working days after the completion of an inspection. The Department will review any findings of noncompliance contained in this report within 20 working days after such inspection.
2. If the Department determines, after such review, that the evidence supports a finding of noncompliance by a crematory authority with any applicable provisions of the Cremation of Human Remains Act or rules and regulations, the Department may send a letter to the crematory authority requesting a statement of compliance. The letter will include a description of each alleged violation, a request that the crematory authority submit a statement of compliance within 10 working days, and a notice that the Department may take further action if the statement of compliance is not submitted. The statement of compliance must include any actions by the crematory authority which have been or will be taken and the period of time estimated to be necessary to correct each alleged violation.
3. If the crematory authority fails to submit such statement of compliance or fails to make a good faith effort to correct the alleged violations, the Department may take further action as provided in Neb. Rev. Stat. §§ 71-1366 to 71-1369.
4. The Department or its agent will conduct a re-inspection of the crematory within 30 days of receipt of verification that all corrections cited on the inspection report are corrected.

- a. If the crematory meets the requirements at the time of re-inspection, the Department or its agent will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.
- b. If the crematory receives an "Unsatisfactory" rating, after the re-inspection, the Department may take further action as provided in Neb. Rev. Stat. §§ 71-1366 to 71-1369.

69-005.03C Failure to permit an inspection for the purposes set out in 172 NAC 69-005 is grounds for denial of an initial crematory license or other action as specified in Neb. Rev. Stat. §§ 71-1366 to 71-1369.

69-005.04 Routine Inspection: The Department or its agent will conduct an on-site inspection of each crematory.

69-005.04A The inspection will be unannounced and it will occur at least once every six years.

69-005.04B The inspection is limited to the following purposes:

1. To ascertain whether all persons providing cremation services on the premises are properly trained;
2. To ascertain whether the equipment and sanitation requirements in 172 NAC 69-006 met; and
3. To ascertain whether the physical structure requirements in 172 NAC 69-006 are met.

69-005.04C The Department or its agent will issue a rating of "Satisfactory" on all initial inspections when the crematory receives an overall inspection rating of 100 percent. The Department or its agent will issue an inspection report and provide a copy of the report to the crematory authority within 10 working days after the completion of the inspection.

69-005.04D The Department or its agent will issue a rating of "Unsatisfactory" on all initial inspections when the crematory receives an overall inspection rating of less than 100 percent.

1. The Department or its agent will issue an inspection report and provide a copy of the report to the crematory authority within 10 working days after the completion of an inspection. The Department will review any findings of noncompliance contained in this report within 20 working days after such inspection.
2. If the Department determines, after such review, that the evidence supports a finding of noncompliance by a crematory authority with any applicable provisions of the Cremation of Human Remains Act

or rules and regulations, the Department may send a letter to the crematory authority requesting a statement of compliance. The letter will include a description of each alleged violation, a request that the crematory authority submit a statement of compliance within 10 working days, and a notice that the Department may take further action if the statement of compliance is not submitted. The statement of compliance must include any actions by the crematory authority which have been or will be taken and the period of time estimated to be necessary to correct each alleged violation.

3. If the crematory authority fails to submit such statement of compliance or fails to make a good faith effort to correct the alleged violations, the Department may take further action as provided in Neb. Rev. Stat. §§ 71-1366 to 71-1369.
4. The Department or its agent will conduct a re-inspection of the crematory within 30 days of receipt of verification that all corrections cited on the inspection report are corrected.
 - a. If the crematory meets the requirements at the time of re-inspection, the Department or its agent will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.
 - b. If the crematory receives an "Unsatisfactory" rating, after the re-inspection, the Department may take further action as provided in Neb. Rev. Stat. §§ 71-1366 to 71-1369.

69-005.04E Failure to permit an inspection for the purposes set out in 172 NAC 69-005 is grounds for denial of an initial crematory license or other action as specified in Neb. Rev. Stat. §§ 71-1366 to 71-1369.

69-005.05 Timing of Inspections: The Department may conduct an on-site inspection at any time it deems necessary.

69-005.06 Focused Selection Inspections: The Department may conduct an inspection of a crematory when the Department is informed of one or more of the following:

1. The passage of six years without an inspection;
2. A complaint alleging a violation of 172 NAC 69-006;
3. Change of services or location; and
4. Any other event that raises concerns about the maintenance or management of the crematory.

69-006 STANDARDS OF OPERATION: A crematory authority must ensure that all operators/employees follow the general operational standards outlined in this section.

69-006.01 Crematory Authority Responsibilities: The crematory authority must determine, implement and monitor policies to assure that the crematory is administered and managed appropriately. The crematory authority's responsibilities include:

1. Monitoring policies to assure appropriate administration and management of the crematory;
2. Ensuring the crematory's compliance with all applicable state statutes and regulations; and
3. Ensuring the quality of all services.

69-006.02 Training: The crematory authority must provide staff with sufficient training to operate the cremation chamber/retort.

69-006.03 Infection Control: The crematory authority must have a system for management of identified infections within the crematory for staff, which includes the use of standard precautions for prevention of transmission of infectious diseases among staff.

69-006.04 Safety Plan: The crematory authority must have a system to identify and prevent the occurrence of hazards to employees. Examples of hazards to be identified and prevented are: dangerous substances, sharp objects, unprotected electrical outlets, extreme water temperatures, and unsafe smoking practices.

69-006.05 Environmental Services: The crematory authority must provide a safe, clean, and comfortable environment.

69-006.05A Maintenance: The crematory authority must provide maintenance necessary to protect the health and safety of employees as follows:

1. Crematory buildings and grounds must be kept clean, safe and in good repair.
2. All garbage and rubbish must be disposed of in a manner as to prevent the attraction of rodents, flies, and all other insects and vermin. Garbage and rubbish must be disposed in a manner as to minimize the transmission of infectious diseases and minimize odor.
3. Adequate lighting and environmental temperatures must be maintained.

4. The premises must be maintained and equipped to prevent the entrance, harborage, or breeding of rodents, flies, and all other insects and vermin.

69-006.05B Equipment, Fixtures, Furnishings, Tools and Supplies: The crematory authority must provide equipment, fixtures, furnishings, tools and supplies, and maintain these things so they are clean, safe and in good repair.

The crematory must have the following:

1. Heat resistant gloves;
2. Filter mask;
3. Cremation chamber built by professional crematory manufacturer, and must be operational; and
4. Designated processing area for pulverization.

The crematory authority must establish and implement a process designed for routine and preventative maintenance of equipment and furnishings to ensure that the equipment and furnishings are safe and functional to meet their intended use.

69-006.07 Safety: The crematory authority is responsible for maintaining the crematory in a manner that minimizes accidents.

69-006.07A The environment must be maintained to protect the health and safety of employees by keeping surfaces smooth and free of sharp edges and mold and dirt, keeping floors free of unsafe objects and slippery or uneven surfaces, and keeping the environment free of other conditions which may pose a potential risk to the health and safety of the employees

69-006.07B All doors, stairways, passageways, aisles or other means of exit must be maintained in a manner that provides safe and adequate access.

69-006.07C Establish and implement policies and procedures to ensure hazardous/poisonous materials are properly handled and stored to prevent accidental ingestion, inhalation, or consumption of the hazardous/poisonous materials.

69-006.07D Restrict access to mechanical equipment which may pose a danger to the public.

69-006.08 Codes and Guidelines

69-006.08A All crematories must comply with the following codes and guidelines to provide a safe and accessible environment:

1. Building: The "Building Construction Act", Neb. Rev. Stat. §§ 71-

- 6401 to 71-6407;
2. Electrical: The State Electrical Act, Neb. Rev. Stat. §§ 81-2101 to 81-2143;
 3. The “Nebraska State Fire Code Regulations” found at 153 NAC 1;
 4. The Nebraska Department of Environmental Quality’s Rules and Regulations regarding incineration construction and operating requirements; and
 5. The applicable zoning and environmental regulations.

69-006.08B The building must meet the building codes of the city/county where it is located.

69-006.09 Record Keeping: A crematory authority shall retain, for at least seven years after the cremation, in printed or electronic format, copies of:

1. The cremation authorization form;
2. Permit for transit or cremation as provided by the Department or cremation permit;
3. Delivery receipt form;
4. Cremated remains receipt form; and
5. Any other records required under the Cremation of Human Remains Act.

69-006.09A Cremation Authorization Form: A crematory authority must not cremate human remains until it has received a cremation authorization form which must be signed by the authorizing agent and includes, but is not limited to, the following information:

1. The name of the deceased;
2. Date and place of death;
3. The identity of the funeral director involved in the preparation of the human remains for cremation, if any;
4. Notification that the death did or did not occur from a disease declared by the Department to be infectious, contagious, communicable, or dangerous to the public health;
5. The name of the authorizing agent and the relationship between the authorizing agent and the deceased;
6. Authorization by the authorizing agent for the crematory authority to cremate the human remains;
7. A representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains;
8. A representation that the human remains do not contain any material, implants, or conditions that may be potentially hazardous to equipment or persons performing the cremation;
9. The name of the person authorized to claim the cremated remains from the crematory authority; and
10. The intended disposition of the cremated remains.

Any person signing a cremation authorization form is deemed to warrant the truthfulness of any facts set forth on such form, including the identity of the deceased whose remains are sought to be cremated and the authority of the person to authorize such cremation. Any person signing a cremation authorization form is personally liable for all damages resulting from false, incorrect, or misleading information contained on such form.

69-006.09B Delivery Receipt Forms: This form must be provided by a funeral establishment to a crematory authority to document the receipt of human remains for cremation. The delivery receipt form must include the following:

1. Name and address of the funeral home;
2. Name and address of the crematory;
3. Name of the deceased;
4. A list of any personal effects which accompanies the cremated remains;
5. Date and time of delivery of the remains;
6. Signature of the funeral director or his/her representative; and
7. Signature of the person receiving the dead human body for cremation.

69-006.09C Cremated Remains Receipt Form: The crematory authority must provide a cremated remains receipt to an authorizing agent or his/her representative that identifies cremated remains and the person authorized to receive such remains. The cremated remains receipt form must include:

1. The name of the deceased,
2. The name of the authorizing agent or his/her representative,
3. The date, time, and place of receipt of the cremated remains,
4. Date of release,
5. Metallic ID disk number,
6. Name and address of the crematory, and
7. The signatures of the crematory authority of the crematory or his or her representative.

69-006.09D Cremation Logbook: A cremation logbook must be kept for each cremation performed and include the following:

1. Name of the deceased;
2. Date the deceased was brought to the crematory;
3. Date of the start of the cremation;
4. Metallic ID disk number;
5. Cremation unit number;

6. Name of the person performing the cremation; and
7. Date and disposition of the cremated remains.

69-007 CREMATION PROCESSES AND PROCEDURES: A crematory authority must ensure that the cremation processes and procedures outlined in this section are followed.

69-007.01 Authorization to Cremate: Cremation of human remains must not occur until the crematory authority has received the following:

1. The cremation authorization form;
2. Permit for transit or cremation as provided by the Department; and
3. The delivery receipt form.

A permit for cremation is not required for crematories under the authority of the State Anatomical Board (Neb. Rev. Stat. §§ 71-1001 to 71-1007).

69-007.02 Cremation Process Upon Receipt of Cremation Authorization

69-007.02A A crematory authority may cremate human remains upon compliance with 172 NAC 69-007.01.

1. A crematory authority must not accept human remains for cremation without a proper label indicating the name of the deceased and the name and location of the funeral establishment placed on the exterior of the alternative container or casket.
2. No crematory authority will make or enforce any rules requiring that human remains be placed in a casket before cremation or that human remains be cremated in a casket. No crematory authority will refuse to accept human remains for cremation if the human remains are not in a casket.
3. No crematory authority will accept human remains for cremation unless the human remains are delivered to the crematory authority in an alternative container or casket or delivered to the crematory authority's holding crematory to be placed in an alternative container or casket. Human remains delivered to a crematory in an alternative container must not be removed from the alternative container, the container must not be opened by the crematory authority and the alternative container must be cremated with the human remains.

69-007.02B A crematory authority may refuse:

1. A noncombustible casket or any other container that is not an alternative container; or

2. A casket or container that is not labeled as required under 172 NAC 69-007.02A, item 1.

An alternative container is not required for crematories under the authority of the State Anatomical Board (Neb. Rev. Stat. §§ 71-1001 to 71-1007).

69-007.02C Alternative Containers: An alternative container must be:

1. Composed of readily combustible materials suitable for cremation;
2. Able to be closed to provide for complete encasement of the human remains;
3. Resistant to leakage or spillage;
4. Rigid enough for easy handling; and
5. Able to provide protection for the health and safety of persons handling such container.

69-007.03 Pacemakers, Hazardous Implants, Jewelry or Other Valuables. A crematory authority must not knowingly cremate human remains that contain pacemakers, hazardous implants, jewelry or other valuables.

1. No human remains will be cremated with the knowledge that the human remains contain a pacemaker or defibrillator or other potentially hazardous implant or condition. The authorizing agent must take all necessary steps to ensure that any such hazardous implant or condition is removed or corrected prior to cremation. If an authorizing agent informs the funeral director and the crematory authority on the cremation authorization form of the presence of such potentially hazardous implant or condition in the human remains, the funeral director must ensure that all necessary steps have been taken to remove or correct the implant or condition before delivering the human remains to the crematory.

A funeral director who knowingly fails to ensure the removal or correction of the hazardous implant or condition prior to delivery and who knowingly delivers such human remains shall be liable for any damages resulting from such failure. If human remains with hazardous implants or conditions are in the custody of a crematory authority, such authority must have the hazardous implants or conditions removed or corrected by a licensed funeral director and embalmer or a licensed embalmer at a funeral establishment within an embalming preparation room or at a medical facility by appropriate medical personnel.

2. No human remains will be cremated with the knowledge that the human remains contain jewelry or other valuables. The authorizing agent must take all necessary steps to ensure that any jewelry or other valuables are removed prior to cremation. If an authorizing agent informs the funeral director and the crematory authority on the cremation authorization form of the presence of jewelry or other valuables on the human remains, the

funeral director must ensure that all necessary steps have been taken to remove the jewelry or other valuables before delivering the human remains to the crematory.

A funeral director who knowingly fails to ensure the removal of the jewelry or other valuables prior to delivery and who knowingly delivers such human remains shall be liable for any damages resulting from such failure. If human remains with jewelry or other valuables are in the custody of a crematory authority, such authority must provide for the removal of such jewelry or other valuables by a licensed funeral director and embalmer or his or her agent.

69-007.04 Holding Facility: A crematory authority, upon receiving human remains, must sign a delivery receipt form and must hold the human remains until cremation. If a crematory authority is unable to cremate the human remains immediately upon receipt, the crematory authority must place the remains in a holding facility.

69-007.04A Crematories with Holding Facilities: The body may be delivered to the crematory without an alternative container or casket; however, the body must be delivered directly to the holding facility for placing the body in the alternative container or casket. The holding facility must:

1. Comply with all applicable public health law;
2. Provide for the health and safety of persons employed at the facility;
3. Prevent unauthorized access to the facility;
4. Be large enough to hold a casket and be able to transport the body from cot to container;
5. Be out of the public's view (except family may view); and
6. Be clean, safe and secure.

69-007.04B Crematories Without Holding Facilities: If a crematory does not have a holding facility, the crematory must cremate the body immediately and the body must have been delivered to the crematory in an alternative container or casket.

69-007.04C Refuse to Accept: A crematory authority may refuse to accept for holding an alternative container or casket if there is evidence of leakage of body fluids of the human remains.

69-007.04D Un-embalmed Bodies: If the human remains are not embalmed, they must be held no longer than 24 hours from the time of death unless the human remains are placed in a refrigerated facility.

1. Refrigeration: If a crematory does have refrigeration, the crematory may hold a body in refrigeration at a constant temperature of less than 40 degrees Fahrenheit for up to 96 hours

following the time of death, and then must cremate within 24 hours following removal from refrigeration.

2. No Refrigeration: If a crematory does not have refrigeration, un-embalmed bodies must be cremated within 24 hours from the time of death.

69-007.05 Crematory Operation Limitations: The crematory operator and crematory authority must adhere to the following operation limitations:

1. No persons may be in a crematory, unless authorized by the crematory authority, while human remains are awaiting cremation, being cremated, or being removed from the cremation chamber.
2. No more than one person must be simultaneously cremated within the same cremation chamber unless the crematory authority has received specific written authorization from the authorizing agent for the human remains to be cremated.

69-007.06 Handling of Remains Following Cremation: The crematory operator must adhere to the following procedures for handling remains following cremation:

1. The recoverable residue of the cremation must be moved from the cremation chamber and any foreign matter or anything other than bone fragments removed from the cremation chamber and disposed. The remaining bone fragments must be pulverized. This does not apply when there was commingling of human remains during cremation as authorized. The presence of incidental and unavoidable residue in the cremation chamber from a prior cremation does not violate this section.
2. The cremated remains with proper identification must be placed in a temporary container or permanent container selected or provided by the authorizing agent. The cremated remains must not be contaminated with any other object unless specific written authorization to the contrary has been received from the authorizing agent.
3. If the entirety of the cremated remains will not fit within a temporary container or permanent container, then the remainder of such remains shall be returned to the authorizing agent or his or her representative in a separate container with proper identification.
4. If the cremated remains are to be shipped, the temporary container or permanent container shall be packed securely in a suitable shipping container that complies with the requirements of the shipper. Unless otherwise directed in writing by the authorizing agent, cremated remains must be shipped only by a method which includes an internal tracking

system and which provides a receipt signed by the person accepting delivery of such remains.

69-007.07 Disposition of Cremated Remains: A crematory authority must adhere to the following procedures for the disposition of cremated remains:

1. The delivery of the cremated remains to the authorizing agent or his or her representative will constitute final disposition. If, after a period of 60 days after the date of cremation, the authorizing agent or his or her representative has not directed or otherwise arranged for the final disposition of the cremated remains or claimed the cremated remains for final disposition as provided in this section, the crematory authority or the funeral establishment in possession of the cremated remains may dispose of the cremated remains after making a reasonable attempt to contact the authorizing agent or his or her representative. This method of disposition may be used by any crematory authority or funeral establishment to dispose of all cremated remains in the possession of a crematory authority or funeral establishment.
2. Cremated remains must be delivered or released by the crematory authority to the representative specified by the authorizing agent on the cremation authorization form. The crematory authority of the crematory authority or his or her representative and the party receiving the cremated remains must sign a cremated remains receipt form. If the cremated remains are shipped, a form used by the shipper under subsection (4) of Neb. Rev. Stat. § 71-1381 may be used in lieu of a completed cremated remains receipt form if the shipper's form contains the information required for a cremated remains receipt form. Both the party delivering such remains and the party receiving such remains shall retain a copy of the cremated remains receipt form or shipper's form. Upon delivery, the cremated remains may be further transported within this state in any manner without a permit.

69-007.08 Disputes Regarding Cremation: The crematory authority must adhere to the following procedures when there is a dispute regarding cremation:

1. If a crematory authority or funeral establishment (a) is aware of any dispute concerning the cremation of human remains or (b) has a reasonable basis to believe that such a dispute exists or to question any of the representations made by the authorizing agent with respect to such remains, until the crematory authority receives a court order that a dispute with respect to such remains has been settled, the crematory authority or funeral establishment may refuse to accept such human remains for cremation or to perform a cremation of such remains.
2. If a crematory authority or funeral establishment is aware of any dispute concerning the release or disposition of cremated remains, the crematory

authority or funeral establishment may refuse to release cremated remains until the dispute has been resolved or the crematory authority or funeral establishment has been provided with a court order authorizing the release or disposition of the cremated remains.

69-008 RENEWAL: To renew a crematory license, the crematory must request renewal and complete the renewal requirements specified in 172 NAC 69-008.02. All crematory licenses issued by the Department expire five years after the date of issuance.

69-008.01 Renewal Notice: At least 30 days before the expiration of a license, the Department will notify the licensed crematory at the last known address of record. The renewal notice will include:

1. The type of license;
2. The license number;
3. The expiration date; and
4. The amount of the renewal fee;

69-008.02 Renewal Procedures: The request for renewal may be submitted in person, by mail, or by Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. The full name and address of the crematory;
 - b. The name of the crematory operator;
 - c. The full name and address of the crematory authority of the crematory, i.e. crematory authority(s);
 - d. The Social Security Number of the crematory authority if the applicant is a sole proprietorship;
 - e. Telephone number including area code (optional);
 - f. E-Mail Address (optional);
 - g. Fax Number (optional);
 - h. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) If the applicant is a sole proprietorship, that s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien

- number, and agree to provide a copy of his/her USCIS documentation upon request;
- i. Signature of:
 - (1) The crematory authority or crematory authorities if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (2) Two of its members if the applicant is a limited liability company that has more than one member;
 - (3) Two of its officers if the applicant is a corporation;
 - (4) The head of the governmental unit having jurisdiction over the crematory if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in items (1) through (4), the crematory authority or crematory authorities or, if there is no crematory authority, the chief executive officer or comparable official; and
 2. Documentation: If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - a. A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - b. An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - c. A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - d. A Form I-94 (Arrival-Departure Record);
 3. Fee: The renewal fee as specified in 172 NAC 69-014. The renewal fee must be paid no later than the date of the expiration of the license.

69-008.03 Expiration of a Crematory License: A crematory license will expire if a crematory fails to:

1. Meet the requirements for renewal on or before the date of expiration of the crematory license; and/or
2. Renew the crematory license.

69-008.03A Right to Operate: When a crematory license expires, the right to operate the crematory terminates without further notice or hearing.

69-008.03B Re-Application for a Crematory License: When a crematory fails to renew its license by the expiration date, a crematory may apply to the Department for and obtain another license as specified in 172 NAC 69-003.

69-009 DISCIPLINARY ACTION: A license to operate a crematory may have disciplinary actions taken against it in accordance with 172 NAC 69-009.03 on any of the following grounds:

1. Failing an inspection specified in 172 NAC 69-005;
2. Having had a license revoked within the five-year period preceding an application;
or
3. Any of the grounds specified in 172 NAC 69-009.01.

69-009.01 A license issued under the Cremation of Human Remains Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with 172 NAC 69-009.03 when the applicant or licensee is found guilty of any of the following:

1. Violation of the Cremation of Human Remains Act or these regulations;
2. Conviction of any crime involving moral turpitude;
3. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony and which has a rational connection with the fitness or capacity of the crematory authority to operate a crematory;
4. Conviction of a violation pursuant to Neb. Rev. Stat. § 71-1371;
5. Obtaining a license as a crematory authority by false representation or fraud;
6. Misrepresentation or fraud in the operation of a crematory; or
7. Failure to allow access by an agency or employee of the Department of Health and Human Services to a crematory operated by the crematory authority for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department.

69-009.02 Procedures for Denial, Refusal to Renew, or Disciplinary Action

69-009.02A If the Department determines to deny, refuse renewal of, or take disciplinary action against a license, the Department must send a notice to the applicant or licensee, by certified mail to the last address shown on its records. The notice must state the determination, including a specific description of the nature of the violation and the statute or regulation violated, and the type of disciplinary action pending.

69-009.03 Types of Disciplinary Action

69-009.03A The Department may impose any one or a combination of the following types of disciplinary action against the license:

1. A fine not to exceed \$500 per violation;
2. A limitation on the license and upon the right of the crematory authority to operate a crematory to the extent, scope, or type of

- operation, for such time, and under such conditions as the director finds necessary and proper;
3. Placement of the license on probation for a period not to exceed two years during which the crematory may continue to operate under terms and conditions fixed by the order of probation;
 4. Suspension of the license for a period not to exceed two years during which the crematory may not operate; and
 5. Revocation and permanent termination of the license.

Any fine imposed and unpaid under the Cremation of Human Remains Act constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the crematory is located. The Department will, within 30 days after receipt, remit any such fines to the State Treasurer for credit to the permanent school fund.

69-009.03B In determining the type of disciplinary action to impose, the Department must consider:

1. The gravity of the violation;
2. The severity of the actual or potential harm;
3. The extent to which the provisions of applicable statutes, rules, and regulations were violated;
4. The reasonableness of the diligence exercised by the Crematory in identifying or correcting the violation;
5. Any previous violations committed by the Crematory; and

69-009.03C If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action as described in 172 NAC 69-009.03.

69-010 NUISANCE AND ABATEMENT PENALTIES

1. Maintaining or operating a crematory in violation of the Cremation of Human Remains Act or any rules and regulations of the Department adopted and promulgated under the act is a public nuisance and may be abated as a nuisance as provided by law.
2. It is a Class III misdemeanor to (a) establish, operate, or maintain a crematory subject to the Cremation of Human Remains Act without being licensed as a crematory authority under the act, (b) hold oneself out to the public as a crematory authority without being licensed under the act, or (c) perform a cremation without a cremation authorization form signed by the authorizing agent and a completed permit for transit or cremation as provided by the Department or a cremation permit.
3. Signing a cremation authorization form with actual knowledge that the form contains false, incorrect, or misleading information is a Class III misdemeanor.

4. A violation of any other provision of the Cremation of Human Remains Act is a Class III misdemeanor.

69-011 INJUNCTION: The Department may maintain an action in the name of the State of Nebraska for an injunction against any person for establishing, operating, or maintaining a crematory without first obtaining a license as a crematory authority under the Cremation of Human Remains Act. In charging any defendant in a complaint in such action, it is sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, operate, or maintain a crematory without obtaining a license as a crematory authority under the act, without alleging any further or more particular facts concerning the same.

69-012 REINSTATEMENT

69-012.01 Non-payment of Fees: If the license of a crematory authority has lapsed for nonpayment of fees, such license is eligible for reinstatement at any time upon application to the Department and payment of the applicable fee as provided in 172 NAC 69-014.

69-012.02 End of the Period of Probation: If the license of a crematory authority has been placed on probation, such license is eligible for reinstatement at the end of the period of probation upon successful completion of an inspection if the Department determines an inspection is warranted.

69-012.03 End of the Period of Suspension: If the license of a crematory authority has been suspended, such license is eligible for reinstatement at the end of the period of suspension upon successful completion of an inspection and payment of the applicable fee as provided in 69-015. A license may be reinstated following:

1. Submission of an application to the Department for renewal that conforms to the requirements of 172 NAC 69-003.02;
2. Payment of the renewal fee as specified in 172 NAC 69-014; and
3. Successful completion of an inspection as provided for in 172 NAC 69-005 and compliance with the operation, care, treatment, and physical plant requirements of 172 NAC 69-006 and 69-007.

69-012.04 Prior to the Completion of the Term of Suspension: If the license of a crematory authority has been suspended, such license may be reinstated by the Department prior to the completion of the term of suspension upon petition by the licensee.

69-012.04A The licensee must:

1. Submit a petition to the Department stating:
 - a. The reasons why the license should be reinstated prior to the suspension completion date; and

- b. The corrective action taken to prevent recurrence of the violation(s) that served as the basis of the suspension;
2. Submit a written renewal application to the Department as specified in 172 NAC 69-003.02;
3. Pay the renewal fee as specified in 172 NAC 69-014; and
4. Successfully complete an inspection.

69-012.04B After reviewing such petition and any material submitted by the licensee with such petition, the Department may order an inspection or investigation of the licensee. Based on such review and such inspection or investigation, if any, the director will:

1. Grant full reinstatement of the license;
2. Modify the probation or suspension; or
3. Deny the petition for reinstatement.

69-012.04C The Director's decision is final 30 days after mailing the decision to the licensee unless the licensee requests a hearing within the 30-day period. The requested hearing must be held according to rules and regulations of the Department for administrative hearings in contested cases.

69-012.04D Revocation: If the license of a crematory authority has been revoked, such crematory authority will not be eligible for relicensure until 5 years after the date of such revocation. A reapplication for an initial license may be made in accordance with 172 NAC 69-003 by the crematory authority at the end of such 5-year period.

69-013 CREMATORY AUTHORITY BYLAWS: A crematory authority may enact reasonable bylaws not inconsistent with the Cremation of Human Remains Act for the management and operation of a crematory operated by such authority. Nothing in 172 NAC 69 prevents a crematory authority from enacting bylaws which contain more stringent requirements than those provided in these regulations.

69-014 FEES: The licensee must pay fees for licensure as set forth below:

69-014.01 Administrative Fees

1. \$25 will be retained by the Department from the licensing fee when a license is denied or an application is withdrawn. If the licensing fee is less than \$25, the fee is forfeited.
 - a. If the Department did not perform an inspection, it will refund the license fee except for an administrative fee of \$25.
 - b. If the Department performed an inspection, the fee is not refunded.

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2. \$10 for a duplicate original or reissued license.
3. \$25 for certification of a license. This includes a certified statement that provides information regarding the basis on which a license was issued, the date of issuance, and whether disciplinary action has been taken against the license.
4. \$5 for verification of a license. This includes written confirmation as to whether a license is valid at the time the request is made.

69-014.02 Licensing Fees

1. \$300 for an Initial and Renewed Crematory License.
2. \$300 for reinstatement of a license that has lapsed or has been suspended.
3. \$75 for a change in location.
4. \$10 for a change in name.
5. \$10 for a change in crematory authority.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 75 PRACTICE OF HEARING AID INSTRUMENT DISPENSERS AND FITTERS

75-001 SCOPE AND AUTHORITY:

These regulations are intended to implement the laws governing the practice of hearing aid instrument dispensers and fitters and set forth the procedures for licensing pursuant to Neb. Rev. Stat. §§71-4701 to 71-4719 and 71-110, 71-147 to 71-161.19, and the Uniform Licensing Law.

75-002 DEFINITIONS.

Accredited High School means a secondary school accredited by a regional accrediting institution.

Act means Neb. Rev. Stat. §71-4701 to §71-4719, known as the Statutes relating to Hearing Aid Instrument Dispensers and Fitters.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Hearing Aid Instrument Dispensers and Fitters.

Continuing Education means the offering of instruction or information to licensees for the purpose of maintaining skills necessary to the safe and competent practice of Hearing Aid Instrument Dispensers and Fitters. The continuing education may be offered under such names as "scientific school", "clinic", "forum", "lecture", "course of study", or "educational seminar". In order for continuing education to be recognized/count for licensure renewal, it must be approved by the Board.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Hearing Aid means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including earmold, but excluding batteries and cords. A hearing aid will also be known as a hearing instrument.

Inactive License means the voluntary termination of the right or privilege to practice as a hearing aid instrument dispenser and fitter. The licensee retains the right or privilege to represent himself/herself as having an inactive license.

Initial Training means the first 90 days of training commencing from issuance of the temporary license.

Lapsed License means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice as a hearing aid instrument dispenser and fitter.

License means a license issued by the state pursuant to Neb. Rev. Stat. §§71-4701 to 71-4719 to hearing aid instrument dispensers and fitters.

Licensure Examination means the International Hearing Institute's Written Comprehensive Examination and the Nebraska Practical Examination administered by the Department.

Modified Nedelsky Method means a method of determining the passing score based on the aggregate information obtained by having judges predict the response behavior of minimally competent examinees on each option (distractor) of each multiple choice test item.
Source: Linn, Robert L. (Ed) 1989. *Educational Measurement, Third Edition. Washington, D.C.:* National Council on Measurement in Education and American Council in Education.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 75.

Official means issued by and under the original seal of the educational institution.

Practice of Fitting Hearing Aids means the measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for earmolds. A dispenser, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing.

Provider means an individual or sponsoring organization that presents continuing education programs to licensees and requests approval from the Board for those programs.

Sell, Sale, or Dispense means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding (a) wholesale transactions with distributors or dispensers and (b) distribution of hearing aids by nonprofit service organizations at no cost to the recipient for the hearing aid.

Supervision means the process by which the quality of work of a temporary licensee is monitored. The supervision includes training and guidance in order to prepare the temporary licensee to perform the correct procedures for fitting and selling hearing aid instruments. During the first 90 days of initial training and guidance, the supervisor must be physically present, at least twice monthly, while the temporary licensee is carrying out assigned duties.

Temporary License means a license issued while the applicant is in training to become a licensed hearing aid instrument dispenser and fitter.

Verified means sworn to before a Notary Public.

75-003 REQUIREMENTS FOR ISSUANCE OF LICENSE AND TEMPORARY LICENSE: Any person who wishes to practice as a hearing aid instrument dispenser and fitter must obtain a license or temporary license. The criteria for issuance of licenses and temporary licenses, and the documentation required by the Department and the Board are set forth below.

75-003.01 License Based on Examination: An applicant for a license to practice as a hearing aid instrument dispenser and fitter on the basis of an examination must:

1. Be at least 21 years of age;
2. Be of good moral character;
3. Have an education equivalent to a four-year course in an accredited high school;
4. Be free of contagious or infectious disease;
5. Have passed the licensure examination with passing scores pursuant to 172 NAC 75-006; and
6. Submit to the Department:
 - a. Evidence of having obtained at least 21 years of age;
 - b. An official transcript showing completion of a four-year course of study from an accredited high school; or
 - c. An official copy of a diploma or certificate from an accredited high school;
 - d. Official documentation of passing the licensure examination;
 - e. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated in these regulations. Only applications which are complete will be considered;
 - f. A statement of good health, on a form provided by the Department, a copy of which is attached as Attachment A1 and incorporated into these regulations;
 - g. The required licensure fee; and
 - h. Attestation by the applicant:
 - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
 - (2) To the actual number of days practiced in Nebraska prior to the application for a license.
7. The Department will act within 150 days upon all completed applications for licensure.
8. When a license will expire within 180 days after its initial issuance date, the Department will collect \$38.50 and any other applicable fees, and the license will be valid until the next subsequent renewal date.
9. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to an assessment of an administrative penalty pursuant to 172 NAC 75-015, or such other action as provided in the

statutes and regulations governing the license.

75-003.02 License Based On A License Issued In Another Jurisdiction: An applicant for a license to practice as a hearing aid instrument dispenser and fitter on the basis of a license in another jurisdiction must:

1. Provide documentation that the standards regulating the practice of hearing aid instrument dispensing and fitting in the other jurisdiction are equivalent to those maintained in Nebraska;
2. Provide documentation that his/her license was based on a written examination equivalent to the Nebraska examination, the grades given at the examination, and the date the license was issued;
3. Provide documentation that s/he is free of contagious or infectious disease;
4. Have attained 21 years of age; and
5. Submit to the Department:
 - a. A complete application on a form provided by the Department, a copy of which is attached as Attachment A, and incorporated in these regulations. Only applications which are complete will be considered;
 - b. A statement of good health, on a form provided by the Department, a copy of which is attached as Attachment A1 and incorporated into these regulations;
 - c. Evidence of having attained at least 21 years of age;
 - d. The required licensure fee; and
 - e. Have the licensing or certifying agency submit to the Department:
 - (1) A certification that the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement on a form provided by the Department, a copy of which is attached as Attachment A2 and incorporated into these regulations;
 - (2) The nature of disciplinary actions, if any, taken against the applicant's license or certificate;
 - (3) The date of the applicant's license or certificate;
 - (4) The name of the examination on which licensure or certification was based;
 - (5) The score attained on the examination; and
 - (6) Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license or certification was issued;

- f. Attestation by the applicant:
 - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
 - (2) To the actual number of days practiced in Nebraska prior to the application for a license.
- 6. The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon standards which are equal to those maintained by hearing aid Instrument dispensers and fitters by Nebraska.
- 7. The Department will act within 150 days upon all completed applications for licensure.
- 8. When a license will expire within 180 days after its initial issuance date, the Department will collect \$38.50 and any other applicable fees, and the license will be valid until the next subsequent renewal date.
- 9. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to an assessment of an administrative penalty pursuant to 172 NAC 75-015, or such other action as provided in the statutes and regulations governing the license.

75-003.03 Temporary License Requirements: A temporary license may be issued to an applicant who has met all requirements for licensure pursuant to 172 NAC 75-003.01 except passing the licensure examination. Previous experience or a waiting period is not required to obtain a temporary license.

75-003.03A An applicant for a temporary license must submit to the Department:

- 1. An official copy of a transcript showing completion of a four-year course of study from an accredited high school; or
- 2. An official copy of a diploma or certificate from an accredited high school; and
- 3. Evidence of having attained at least 21 years of age;
- 4. A complete application, on a form provided by the Department and attached as Attachment B and incorporated in these regulations. Only applications which are complete will be considered;
- 5. A statement of good health on a form provided by the Department, a copy of which is attached as Attachment A1 and incorporated into these regulations; and

6. The required temporary licensure fee.
7. Attestation by the applicant:
 - (a) That s/he has not practiced in Nebraska prior to the application for a license; or
 - (b) To the actual number of days practiced in Nebraska prior to the application for a license.
8. The Department will act within 150 days upon all completed applications for licensure.

75-003.03B Expiration of a Temporary License: All temporary licenses will become null and void upon the Department's notification that the temporary licensee has passed the examination or a year from the issuance date, whichever comes first. A temporary license may be renewed pursuant to the requirements of 172 NAC 75-010.

75-003.03C Standards for Supervision: Any person who practices as a temporary hearing aid instrument dispenser and fitter must be supervised by a licensed hearing aid instrument dispenser and fitter.

75-003.03C1 The supervisor must meet with the temporary licensee face to face twice a month during the first 90 days of the initial training session, which will commence upon the issuance of the temporary license. Thereafter, the supervisor must meet with the temporary licensee monthly to evaluate the temporary licensee's performance in the following areas:

1. Audiometric evaluations;
2. Impressions;
3. Purchase agreements;
4. Instrument orders;
5. Hearing instrument fittings; and
6. Consultation advice and training.

75-003.03C2 The supervisor must train the temporary licensee in the following areas during the initial 90 day training period:

1. Basic physics of sound;
2. The anatomy and physiology of the ear;
3. The function of hearing aids;
4. Pure tone audiometry, including air conduction testing and bone conduction testing;
5. Live voice or recorded voice speech audiometry;
6. Masking;

7. Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing aid; and
8. Taking earmold impressions.

75-003.03C3 The supervisor of a person who holds a temporary license must immediately notify the Department when supervision of the temporary licensee is terminated.

75-003.03C4 Upon completion of the initial training pursuant to 172 NAC 75-003.03C2, the supervisor must document the training on a form provided by the Department and referenced in these regulations as Attachment P.

75-004 EXAMINATION ELIGIBILITY

75-004.01 To be eligible to take the licensure examination administered by the Department, an applicant must have met all the requirements for licensure pursuant to 172 NAC 75-003.01 except passage of such examination.

75-004.02 To take the examination administered by the Department, an applicant must submit a complete application form and fee to the Department. Submit this form at least 30 days prior to the administration of the examination. A copy of the form is attached as Attachment A and incorporated in these regulations.

75-005 EXAMINATION PROCEDURES

75-005.01 The examination will be administered by the Department in February, May, and October of each year, and the applicant will be notified of the date, time, place, and other information pertinent to administration of the examination.

75-005.02 The Department will notify the applicant in writing of examination results from six to ten weeks after the administration of the examination.

75-006 EXAMINATION PASSING SCORE: To receive a license each examinee must pass the written comprehensive examination and the practical examination.

75-006.01 The passing score for the written comprehensive examination is determined by using the Modified Nedelsky Method.

75-006.02 The practical examination passing scores must be at least 70 in each subject examined.

75-007 REEXAMINATION: An examinee who fails the written comprehensive or practical examination may retake the examinations pursuant to the requirements as set forth below.

75-007.01 Written Comprehensive Examination

1. An examinee who fails the written comprehensive examination must retake the entire examination.
2. The examinee will be entitled to take the next regularly scheduled examination.
3. The examinee must submit to the Department:
 - a. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations; and
 - b. The required licensure fee.

75-007.02 Practical Examination

1. An examinee who fails the practical examination with an overall average of less than 70 must retake the entire examination.
2. An examinee who fails the practical examination in one or two subjects with an overall average of 70 or above must retake those sections failed.
3. An examinee who fails the practical examination in more than two subjects with an overall average of 70 or above must retake the entire examination.
4. The examinee will be entitled to take the next regularly scheduled examination.
5. The examinee must submit to the Department:
 - a. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations; and
 - b. The required licensure fee.

75-008 CONTINUING COMPETENCY REQUIREMENTS

75-008.01 General Requirements for License: On or before December 31 of each even-numbered year, each hearing aid instrument dispenser and fitter who is in active practice in the State of Nebraska must:

1. Complete 24 hours of approved continuing education during the preceding 24 month period. No more hours than the total number of approved hours offered in Nebraska will be required during this period;

2. Be responsible for:
 - a. Maintaining a record of attendance at continuing education programs;
 - b. Verifying with the Department that the continuing education program is approved by the Board;
 - c. Maintaining documentation of attendance at or presentation of approved continuing education programs. Subject matter acceptable for continuing education credit is described as follows:
 - (1) Approved programs at State and National Meetings, i.e., Nebraska Hearing Aid Society and/or the National Hearing Aid Society.
 - (a) One hour credit awarded for each hour attended.
 - (2) Formal education courses which relate directly to the practice of hearing aid instrument dispensing and fitting.
 - (a) One hour credit awarded for each hour of attendance;
 - (3) University sponsored courses in continuing education.
 - (a) One hour credit awarded for each hour of attendance.
 - (4) Any other types of activity that may be approved by the Board may include but are not limited to: human relations, governmental regulations and third party reimbursement;
 - (a) One hour credit awarded for each hour of attendance.
 - (5) Licensee acting as essayist, or lecturer to licensed hearing aid instrument dispensers and fitters;
 - (a) One hour credit awarded for each hour of scientific presentation;
 - (6) Formal self study where the content of the self study activity relates to the practice of hearing aid instrument dispensing and fitting whether the subject is research, treatment, documentation, education, or management, e.g. videotapes, internet courses, and correspondence courses. Licensees may complete a maximum of 6 hours of continuing education by self-study each 24 month renewal period. The self-study program must have a testing mechanism. A licensee's

documentation must include a certificate of completion, and a program outline and/or objectives;

(a) One hour credit awarded for each two hours of study.

(7) Business, management and marketing courses which pertain to the practice of hearing aid instrument dispensing and fitting.

Licensees may complete a maximum of eight hours of continuing education utilizing these courses each 24 month renewal period. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives;

(a) One hour credit awarded for each hour attended.

d. Maintaining documentation of presentation of an approved continuing education program. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program; and

e. If applicable, submit an application for waiver of the continuing education requirement pursuant to 172 NAC 75-008.03.

75-008.02 Approval of Continuing Education Programs

75-008.02A The Board will evaluate applications from providers of continuing education programs in order to determine if approval is to be granted or denied. To be approved, a continuing education program must meet the following criteria:

1. The program must be at least 60 minutes in duration;
2. The program's objectives must relate directly to the theory or clinical application of theory pertaining to the practice of hearing aid instrument dispensing and fitting;
3. The presenter of the program must be qualified by education, experience, or training; and
4. Programs must be open to all hearing aid instrument dispensers and fitters licensed in Nebraska.

75-008.02B The provider must submit to the Board an application on a form provided by the Department, a copy of which is attached as Attachment C and

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incorporated into these regulations. Only applications which are complete will be considered. The following information must be included in the application:

1. A description in detail of program content;
2. Program objectives;
3. A description of the qualifications of each presenter;
4. The number of hours for which approval is requested;
5. The name, address, and telephone number of the provider and its administrator or operating officer;
6. A description of the process the provider uses to verify attendance by the licensee;
7. A sample copy of the documentation the provider issues to the licensee as proof of attendance at the program; and
8. Date, time and place of program; and
9. The type of program that is being provided pursuant to 175 NAC 75-008.01, item 2.c.

75-008.02C The provider may submit such additional documents or information as the applicant may consider relevant to the application and compliance with the provisions of these regulations.

75-008.02D The provider must submit a complete application to the Department at least 45 days prior to the date on which the program is to be given to gain approval before the program is presented.

75-008.02E Once a provider is granted approval by the Board for a continuing education program, reapproval will not be required for each subsequent occasion on which the program is administered so long as the program is not changed. If any portion of the program is changed, reapplication must be made pursuant to 172 NAC 75-008.02B.

75-008.02F Post-Program Approval: Applications for approval of a continuing education program made after the program has occurred must be submitted within 60 days after the date of the program, except those applications for approval submitted 60 days or less before December 31, of each even-numbered year will not be considered for approval for the renewal period.

75-008.02G After the Board has granted its written approval of the application, the provider is entitled to state upon any publication which advertises or announces the

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program, the following statement: "This program is approved for ___ hours of continuing education by the Nebraska Board of Hearing Aid Instrument Dispensers and Fitters."

75-008.02H The Board will grant approval for continuing education programs that meet the criteria pursuant to 172 NAC 75-008.02A when such is offered by a state or national professional association. These include, but are not limited to: The National Hearing Aid Society and Nebraska Hearing Aid Society.

75-008.02I Grounds for Denial of Continuing Education Programs: The Department will deny an application for approval of a continuing education program on any of the following grounds:

1. Fraud or misrepresentation of information in an application;
2. Program content or the presenter's qualifications fail to meet requirements pursuant to 172 NAC 75-008.02. The Board will not approve the following types of continuing education programs including, but not limited to: personal development, time management, child abuse, professional affairs, administration, collective bargaining, tours, and supervision; or
3. If the program's objectives do not relate to the theory or clinical application of theory pertaining to the practice of hearing aid instrument dispensing and fitting.
4. The Board may grant or deny an application for approval of continuing education programs. Should the Board determine to deny an application approval of a continuing education program, it will send to the applicant by either certified or registered mail to the last address of record in the Department or as otherwise known, a notice setting forth the reasons for the determination. The denial will become final 30 days after the mailing of the notice unless the applicant within the 30 day period, gives written notice to the Department of a desire for hearing. The hearing will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.
5. Only applications which are complete will be considered. To be complete, an application must include:
 - a. All of the information requested on a verified complete application for approval of continuing education program on a form provided by the Department, a copy of which is attached hereto as Attachment C, and incorporated in these regulations; and

- b. The signature of the licensee or administrator or operating officer of the provider making the application.
6. An applicant may submit such additional documents or information as the applicant may consider relevant to the application and in compliance with the Act and these regulations.
7. In the event that an application is determined to be incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of such additional information. The applicant will have ten days in which to provide the information necessary to complete the application. Should an applicant fail to complete the application within the ten day period, all materials will be returned and a new application will be necessary.

75-008.03 Waiver of Continuing Competency Requirement: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any two-year license or for the period of time since the license was last issued when a licensee submits documentation that circumstances beyond his/her control prevented him/her from completing the requirements.

75-008.03A The circumstances include situations in which:

1. The licensee holds a Nebraska license but is not practicing his/her profession in Nebraska;
2. The licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date;
3. The licensee has submitted proof that s/he was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; and
4. The licensee was first licensed within the 24 months immediately preceding the license renewal date.

75-008.03B Application: Any licensee seeking waiver of continuing competency requirements must apply to the Board for a recommendation to the Department to waive continuing competency. This application must be made on Attachment D, and it must be received by the Department on or before December 31 of the year the license is due to be renewed.

75-008.03B1 The licensee must submit:

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1. A complete application for waiver of continuing competency requirements on a form provided by the Department, a copy of which is attached hereto as Attachment D, and incorporated in these regulations. Only applications which are complete will be considered, and the application must be

received by the Department on or before December 31 of the year the license is due to be renewed; and

2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements pursuant to 172 NAC 75-008.03A must include the following:

- a. If the licensee holds a Nebraska license but is not practicing in Nebraska, s/he must mark the appropriate response in Section C of Attachment D.

- b. If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must mark the appropriate response in Section C of Attachment D and submit official documentation stating the dates of the service.

- c. If the licensee suffered from a serious or disabling illness or physical disability which prevented completion of the of continuing competency requirements during the 24months immediately preceding the license renewal date, s/he must mark the appropriate response in Section C of Attachment D and submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to obtain continuing competency requirements during that period.

- d. If the licensee was first licensed within the 24months immediately preceding the license renewal date, s/he must mark the appropriate response in Section C of Attachment D and list the date the license was issued.

75-008.03C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of the requirements.

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75-008.03C1 When the Department determines to deny an application for waiver of continuing competency requirements, it will send to the applicant by certified mail to the last name and address of record in the Department or as otherwise known, a notice setting forth the reason for the denial determination.

75-008.03C1a The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal must be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

75-008.03C1b The Department will issue at the conclusion of the appeal pursuant to 184 NAC 1, a final order setting forth the results of the appeal.

75-008.03C2 When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30days of receipt of the application.

75-008.04 Audit of Continuing Competency Requirements: The Board may select, in a random manner, a sample of the license renewal applications for audit of continuing competency requirements. Each licensee is responsible for maintaining in his/her own personal files the certificates or records of credit from continuing education activities received from providers. Licensees selected for audit must produce documentation of their attendance at those continuing education activities attested to on their renewal applications.

75-008.04A The Department will send to each licensee selected for audit a notice of audit.

75-008.04B When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in approved continuing education activities.

75-008.04C Failure to comply with the audit may result in non-renewal of the license.

75-009 PROCEDURES FOR RENEWAL OF LICENSE: All initial licenses issued by the Department under the Act and these regulations expire on December 31 of each even-numbered year.

75-009.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet continuing competency requirements pursuant to 172 NAC 75-008;
2. Pay the renewal fee pursuant to 172 NAC 75-014; and
3. Respond to the following questions:

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- a. Has your license in any health care profession in another state been revoked, suspended, limited, or disciplined in any manner?
- b. Have you been convicted of a misdemeanor or a felony?

These questions related to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the expiration date.

4. Cause to be submitted to the Department:

- a. The renewal notice;
- b. The renewal fee; and
- c. Attestation of completing 24 hours of continuing education earned within 24 months of the date of expiration or an application for waiver of continuing competency requirements. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
- d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
- e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

75-009.02 First Notice: At least thirty days before December 31 of each even-numbered year the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last known address as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

75-009.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;

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3. The license number;
4. The expiration date of the license;
5. The renewal fee pursuant to 172 NAC 75-014;
6. The number of continuing education hours required for renewal; and
7. The option to place the license on either inactive or lapsed status.

75-009.02B The licensee will apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's Social Security Number;
4. Attestation of completing 24 hours of continuing education earned within 24 months of the date of expiration or an application for waiver of continuing competency requirements; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

75-009.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25 or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

75-009.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

75-009.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place such license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to the requirements of 172 NAC 75-009.02 that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty under 172 NAC 75-015 if s/he practices after the expiration date;

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4. That upon receipt of the renewal fee, together with an additional fee of \$25, and documentation of continuing competency requirements within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency requirements, the license will be revoked pursuant to 172 NAC 75-011.

75-009.04 The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's Social Security Number;
4. Attestation by the licensee:
 - (a) That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - (b) To the actual number of days practiced in Nebraska since the expiration of his/her license.
5. Attestation of completing 24 hours of continuing education earned within 24 months of the date of expiration or waiver of continuing competency requirements; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

75-009.05 If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

75-009.06 The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

75-009.07 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency requirements and/or to pay an additional fee of \$25 the Department will automatically revoke the license without further notice or hearing and makes proper record of the revocation.

75-009.08 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of license, unless a waiver of

continuing competency requirements is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and/or to pay an additional late fee of \$25, the Department will revoke the license after notice and opportunity for hearing. Hearings held before the Department will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

75-009.09 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 75-009.07 and 009.08 will not apply.

75-009.10 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure for the Department.

75-009.11 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty under 172 NAC 75-015, or such other action as provided in the statutes and regulations governing the credential.

75-010 RENEWAL/REISSUANCE OF TEMPORARY LICENSE: The temporary license expires 12 months from the date of issuance and may be renewed or reissued once for a 12 month period.

75-010.01 Notice of Renewal

75-010.01A The Department will send a renewal notice, at least 30 days prior to the expiration date of licensure, to each temporary licensee who has not successfully completed the licensure examination. It is the responsibility of the temporary licensee prior to the license expiration date to notify the Department of any additions or corrections.

75-010.01A1 The renewal notice must specify:

1. The name of the temporary licensee;
2. The name of the temporary licensee's supervisor;
3. The temporary licensee's last known address of record;
4. The temporary licensee's license number;
5. The expiration date of the license; and
6. The temporary license renewal fee pursuant to 172 NAC 75-014.

75-010.01B The temporary licensee must apply for renewal by submitting to the Department:

1. The renewal notice;

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2. The renewal fee;
3. The licensee's Social Security Number; and
4. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

75-011 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:

The Department will automatically revoke a license to practice hearing aid instrument dispensing and fitting when the licensee fails to meet the renewal requirements within 30 days of its expiration.

75-011.01 Revocation for Nonpayment of Renewal Fee

75-011.01A When a licensee fails to pay the required renewal fee, to submit documentation of continuing education, and/or to pay an additional fee of \$25, or fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department will automatically revoke the license without further notice or hearing and will make proper record of the revocation.

75-011.01A1 The revocation notice must specify:

1. That the licensee was given a first and final notice of renewal requirements and the respective dates for these notices;
2. That the licensee failed to renew the license or to have his/her license placed on inactive or lapsed status;
3. That the Department has revoked the license;
4. That the licensee has a right to appeal the revocation; and
5. That the licensee has a right to reinstatement of the license.

75-011.02 Revocation for Failure to Meet Continuing Competency Requirements

75-011.02A When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal the Department will revoke his/her license after notice and opportunity for a hearing.

75-011.02A1 The notice of failure to meet continuing competency requirements and opportunity for a hearing must specify that:

1. The licensee was given first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. Licensee either failed to renew the license or have his/her license placed on inactive or lapsed status;
3. The Department will revoke the license within 30 days of date of receipt of the notice unless the licensee requests in writing a hearing.
4. The licensee has a right to appeal the revocation; and
5. The licensee has a right to reinstatement of the license.

75-012 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

75-012.01 The Department may deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 75-003.

75-012.02 The Department may refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 75-009 or 172 NAC 75-012.03.

75-012.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license or certificate;
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01;
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession;
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so;

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9. Having had his/her license denied, refused renewal, limited, suspended, or revoked, or having had such license disciplined in any other manner pursuant to Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice Hearing Aid Instrument Dispensing and Fitting, based upon acts by the applicant or license holder similar to acts pursuant to 172 NAC 75-012. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence; and

10. Unprofessional conduct, which term includes all acts pursuant to Neb. Rev. Stat. § 71-148 and such other acts which include but are not limited to:
 - a. Competence: A hearing aid instrument dispenser and fitter must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of Hearing Aid Instrument Dispensing and Fitting includes but is not limited to:
 - (1) Committing any act which endangers patient safety or welfare;
 - (2) Encouraging or promoting hearing aid instrument dispensing and fitting by untrained or unqualified persons; or
 - (3) Failure or departure from the standards of acceptable and prevailing practice in hearing aid instrument dispensing and fitting.
 - b. Confidentiality: A hearing aid instrument dispenser and fitter must hold in confidence information obtained from a patient, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law. Failure to do so constitutes unprofessional conduct.
 - c. Professional Relationships: A hearing aid instrument dispenser and fitter must safeguard the welfare of patients and maintain appropriate professional relationships with patients. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - (1) Improper use of another person for one's own advantage;
 - (2) Failure to decline to carry out hearing aid instrument dispensing and fitting services that have been requested when such services are known to be contraindicated or unjustified;

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- (3) Failure to decline to carry out procedures that have been requested when such services are know to be outside of the hearing aid instrument dispenser and fitter's scope of practice;
 - (4) Verbally or physically abusing patients;
 - (5) Falsification or unauthorized destruction of patient records;

 - (6) Attempting to provide diagnostic or treatment information to patient(s) that is beyond the hearing aid instrument dispenser and fitter's level of training and expertise;
 - (7) Delegating to other personnel those patient related services when the clinical skills and expertise of a hearing aid instrument dispenser and fitter is required; or
 - (8) Failure to conform to the ethics of the profession.
- d. Sexual Harassment: A hearing aid instrument dispenser and fitter must not under any circumstances engage in sexual harassment of patients or co-workers.
- (1) Sexual Harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:
 - (a) The provision or denial of care to a patient;
 - (b) The provision or denial of employment or employment advances to a co-worker;
 - (c) For the purpose or effect of creating an intimidating, hostile, or offensive environment for the patient or unreasonably interfering with the patient's ability to recover; or
 - (d) For the purpose or effect of creating an intimidating, hostile, or offensive environment or unreasonably interfering with the co-worker's ability to perform his/her work.

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- e. Advertising: To advertise in a manner that deceives, misleads, or defrauds the public. The following advertising practices will be considered to be deceptive:
 - (1) To charge a fee for any hearing aid instrument dispenser and fitter service conducted within 24 hours after performing a hearing aid instrument dispenser and fitter service that was advertised as being free; and
 - (2) Obtaining any fee for professional services by fraud, deceit, or misrepresentation.

- f. The violation of an assurance of compliance entered into pursuant to Neb. Rev. Stat. §71-171.02 of the Uniform Licensing Law;
- g. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
- h. Failure to safeguard the patient's dignity and right to privacy;
- i. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
- j. Practicing hearing aid instrument dispensing and fitting in this state without a current Nebraska license;
- k. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's professional excellence or abilities in advertisements;
- l. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
- m. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;
- n. Willful or repeated violations pursuant to 172 NAC 75-012;
- o. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee is not licensed or certified to practice;
- p. Practicing as a hearing aid instrument dispenser and fitter while his/her license is suspended or in contravention of any limitations placed upon such license;

- q. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or licensee unqualified to practice his/her profession or occupation;
- r. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed;
- s. Failure to file a report pursuant to Neb. Rev. Stat. § 71-168;
- t. Fitting and selling a hearing aid without a signed waiver by the legal guardian to a child under the age of sixteen who has not been examined and cleared for hearing aid use within a six-month period by an otolaryngologist. This subdivision does not apply to the replacement with an identical model of any hearing aid within one year of its purchase;
- u. Any other condition or acts which violate the Trade Practice Rules for the Hearing Aid Industry of the Federal Trade Commission or the Food and Drug Administration;
- v. Conducting business while suffering from a contagious or infectious disease; and
- w. Violating any provision of Neb. Rev. Stat. §§ 71-4701 to 71-4719 of this act.

75-012-04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend a license other than for non-payment of the renewal fee, the applicant or licensee will be given an opportunity for a hearing before the Department and will have the right to present evidence on his/her own behalf. Hearings before the Department will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

75-013 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

75-013.01 Eligibility

75-013.01A An individual whose credential has been previously:

- 1. Placed on lapsed status;
- 2. Placed on inactive status;

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3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time; may request, at any time, to be re-credentialed and re-authorized to practice under the credential, pursuant to these regulations.

75-013.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

75-013.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 75-015; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

75-013.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 75-003.

75-013.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 75-015;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

75-013.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status;
or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

75-013.02C The Department will act within 150 days on all completed applications.

75-013.02D The applicant will be provided with notice and the opportunity for hearing pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 75-

75-013.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and any other applicable fees;

2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

75-013.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security Number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

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- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - [1] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (c) Disciplinary charges pending against any professional credential held by the applicant.
- f. Attestation that the continuing competency requirements for renewal have been met;
- 2. The renewal fee and any other applicable fees.
- 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

75-013.04A If an applicant has practiced while his/her credential was inactive, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 75-015;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to move the credential from inactive to active status; or
- 4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

75-013.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request to move the credential from inactive to active status; or
- 3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

75-013.04C In either event pursuant to 172 NAC 75-010.04A or 75-010.04B, a notice and the opportunity for hearing will be given to the applicant.

75-013.04D The Department will act within 150 days on all completed applications.

75-013.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

- 1. Meet the renewal requirements, including:

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- a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
2. Attest:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

75-013.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the applicant explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the applicant.

- (6) Attestation that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees.
3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 75-015 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 75-013.06B below.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

75-013.06A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions or restrictions; or
3. Deny reinstatement.

75-013.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstate the credential: An Administrative Penalty may be assessed pursuant to 172 NAC 75-015 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstate the credential with terms, conditions or restrictions: In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 75-015 if warranted; or
 - b. Deny reinstatement: In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

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75-013.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

75-013.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;

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- [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.
- (6) Attestation that the continuing competency requirements for renewal have been met.
- 2. The renewal fee, the late fee of \$75 and any other applicable fees.
- 3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 75-015 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 75-013.08F.

75-013.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

75-013.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

75-013.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

75-013.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

75-013.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

75-013.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the

petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

75-013.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

75-013.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

75-013.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

75-013.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

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1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

75-013.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

75-013.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

75-013.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

75-013.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least

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- two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
- c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner;
 - (6) Any continuing competency activities.
 2. The reinstatement fee of \$75.
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC

75-015 in which case a separate notice and opportunity for hearing will be sent to the petitioner.

- (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 75-015.10G.

75-013.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

75-013.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

75-013.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

75-013.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

75-013.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

75-013.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

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75-013.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

75-013.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

75-013.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

75-013.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in pursuant to the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.

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4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

75-013.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential pursuant to the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and

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- e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

75-013.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

75-013.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

75-013.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

75-013.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security Number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:

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- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Any continuing competency activities.
- g. Attest:
- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

75-013.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 75-015;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

75-013.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;

2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

75-013.11A4 In either event pursuant to 172 NAC 75-013.11A2 or 75-013.11A3, a notice and the opportunity for hearing will be given to the applicant.

75-013.11A5 The Department will act within 150 days on all completed applications.

75-013.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

75-013.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

75-013.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 75-015.

75-013.13 Credentials Voluntarily Surrendered or Limited Permanently

75-013.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

75-014 SCHEDULE OF FEES: The following fees have been set by the Department.

1. Initial License Fee: By an applicant for a license to practice as a hearing aid instrument dispenser and fitter, the fee of \$150 and the Licensee Assistance Program Fee of \$1 for each year remaining during the current biennial renewal period.
2. Proration of Initial License Fee: For issuance of a hearing aid instrument dispenser and fitter license that will expire within 180 days after its initial issuance date, a fee of \$37.50 and the Licensee Assistance Program Fee of \$1.
3. Temporary License Fee: By an applicant for a temporary license to practice as a hearing aid instrument dispenser and fitter, the fee of \$50.
4. License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice as a hearing aid instrument dispenser and fitter, the fee of \$25 and the Licensee Assistance Program Fee of \$2.
5. Temporary License Renewal Fee: By an applicant for a one-time renewal or reissuance of a temporary license to practice as a hearing aid instrument dispenser and fitter, the fee of \$100.

6. Inactive License Status Fee: By an applicant to have his/her hearing aid dispenser and fitter license placed on inactive status, the fee of \$25.

7. Renewal Late Fee: By an applicant for a renewal on a biennial basis of a hearing aid instrument dispenser and fitter license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

8. Certification of License Fee: For issuance of a certification of a hearing aid instrument dispenser and fitter license, the fee of \$25. The certification includes information regarding:
 - a. The basis on which a license was issued;
 - b. The date of issuance;
 - c. Whether disciplinary action has been taken against the license; and
 - d. The current status of the license.

9. Verification of License Fee: For issuance of a verification of a hearing aid instrument dispenser and fitter license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.

10. Duplicate License Fee: For a duplicate of original hearing aid instrument dispenser and fitter license or reissued license, the fee of \$10.

11. Administrative Fee: For a denied hearing aid instrument dispenser and fitter license or a withdrawn application the administrative fee of \$25 will be retained by the Department, except if the licensing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

12. Reinstatement Late Fee: For reinstatement of a hearing aid instrument dispenser and fitter licenses for failure to meet renewal requirements:
 - a. Within one year, the fee of \$35 in addition to the renewal fee.
 - b. After one year of revocation, the fee of \$75 in addition to the renewal fee.

13. Reinstatement Fee: For reinstatement of a hearing aid instrument dispenser and fitter license following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

75-015 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a license for the purpose of this regulation means practice:

1. Prior to the issuance of a license;
2. Following the expiration of a license; or
3. Prior to the reinstatement of a license.

75-015.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;

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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 75

2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

75-015.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person: The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

75-015.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

Effective Date NEBRASKA HEALTH AND HUMAN SERVICES
September 22, 2004 REGULATION AND LICENSURE

172 NAC 75

Approved by Attorney General: August 12, 2004
Approved by Governor: September 17, 2004
Filed with Secretary of State: September 17, 2004
Effective Date: September 22, 2004

Forms A through P may be obtained by contacting the Credentialing Division.

Nebraska Department of Health and Human Services
Regulation and Licensure
Credentialing Division
PO Box 94986
Lincoln NE 68509-4986

(402)471-2299

<http://www.hhs.state.ne.us/crl/profindex1.htm>

STATE OF NEBRASKA
 Department of Health and Human Services
 Regulation & Licensure
 Credentialing Division
 P.O. Box 94986
 Lincoln, Nebraska 68509-4986

APPLICATION FOR LICENSURE AS A HEARING AID INSTRUMENT DISPENSER AND FITTER

SECTION A - PERSONAL INFORMATION (All applicants must complete this section)					
1	Name:	Last:	First:	Middle/Maiden:	
2	Permanent Mailing Address:	Street/PO/Route:			
		City:	State:	Zip:	
3	Telephone number (optional):				
4	Business Address:	Street/PO/Route:			
		City:	State:	Zip:	
5	Business Telephone (optional):				
6	Date of Birth:	Age:	SSN:		
(Attach proof of age: i.e., certified copy of birth certificate, notarized copy of driver's license.)					
7	Place of Birth:	City/County/State:			
MORAL CHARACTER					
8	Have you ever been convicted of a misdemeanor or felony?			Yes	No
				<input type="checkbox"/>	<input type="checkbox"/>
**If you answered YES to the above question, you must request the following documents be sent directly to this office:					
Official court Record, which includes charges and disposition					
If the conviction involved a drug and/or alcohol related offense, all addiction/mental health evaluations and proof of treatment (if treatment was obtained and/or required)					
If you are currently on probation, a letter from your probation officer addressing probationary conditions and your current status					
9	Has your license in any health care profession in another state been disciplined, suspended, limited or disciplined in any manner?			Yes	No
				<input type="checkbox"/>	<input type="checkbox"/>
**If you answered YES to the above question, you must request the following documents be sent directly to this office:					
If your license in health care in another state has been revoked, suspended, limited or disciplined in any way, an official copy of the disciplinary action, including charges and disposition.					
10	Have you actively practiced in Nebraska as a Hearing Aid Instrument Dispenser and Fitter prior to licensure?			Yes	No
				<input type="checkbox"/>	<input type="checkbox"/>
**If yes, how many days have you practiced in Nebraska as a Hearing Aid Instrument Dispenser and Fitter prior to licensure?			Number of days		
11.	Are you licensed or certified in another state?			Yes	No
				<input type="checkbox"/>	<input type="checkbox"/>
**If yes, please complete section F of this application					

Determine the month and year in which you are submitting your application. Pay the amount in the corresponding box.

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
Even	\$151	\$151	\$151	\$151	\$151	\$151	\$38.50	\$38.50	\$38.50	\$38.50	\$38.50	\$38.50
Odd	\$152	\$152	\$152	\$152	\$152	\$152	\$152	\$152	\$152	\$152	\$152	\$152

**If the license fee at the time the application is final is different from the fee at the time the application is submitted, the difference will be requested or refunded.

SECTION B – LICENSE APPLICATION CATEGORY (All applicants must complete this section)

<input type="checkbox"/> License By Examination	<input type="checkbox"/> By License in Another Jurisdiction
---	---

SECTION C - EDUCATION: (All applicants must complete this section)

Name of High School				
Location		Street/PO/Route:		
		City:	State:	Zip:
Diploma	Yes	No	Year of Graduation	
	<input type="checkbox"/>	<input type="checkbox"/>		
GED Certificate	Yes	No		
	<input type="checkbox"/>	<input type="checkbox"/>		
Issued by	Name of School			
Date (M/D/Y)				

PLEASE SUBMIT AN OFFICIAL COPY OF YOUR HIGH SCHOOL DIPLOMA, TRANSCRIPT, OR GED CERTIFICATE

SECTION D - PHOTOGRAPH (All applicants must provide a photograph. The photograph will be used to gain entrance into the State Licensure Examination.)

Attach recent I.D. Photograph 2" x 3" unmounted and signed across front.
Picture must be a frontal view of applicant's head and shoulders.

SECTION E - STATEMENT OF GOOD HEALTH: All applicants must have a physician complete and submit the "Statement of Good Health" to the Credentialing Division. (Attachment A1)

SECTION F – LICENSE ISSUED ON BASIS OF A LICENSE IN ANOTHER JURISDICTION:

If you hold a license to practice as a Hearing Aid Instrument Dispenser and Fitter in another jurisdiction, complete this section and have the licensing agency complete the Certification of Applicant's License as a Hearing Aid Instrument Dispenser and Fitter. (Attachment A2)

1	Name of Agency Issuing License			
	Address	Street/PO/Route:		
		City:	State:	Zip:
2	Date Issued			

Has action ever been taken to suspend/revoke your license?		Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
If yes, state date and type of action; name and address of entity taking such action:			
Type of Action	Date of Action	Entity taking action	

SECTION G – Certification (All applicants must complete this section)

I, _____ hereby certify that the preceding information is correct to the best of my knowledge and I further certify that I am of good moral character.

Signature of Applicant

Date

STATE OF NEBRASKA
Department of Health and Human Services
Regulation & Licensure
Credentialing Division
PO Box 94986
Lincoln, NE 68509-4986

**STATEMENT OF GOOD HEALTH HEARING AID INSTRUMENT
DISPENSERS AND FITTERS**

To the Department of Health and Human Services, State of Nebraska:

I hereby certify that I have this day examined _____
(Name of applicant)

of _____
(Address)

(City) (State) (Zip Code)

and have found him/her to be free from infectious or contagious disease.

Dated this _____ day of _____, 20 ____.

Name of Medical Doctor (Please Print)

Signature of Medical Doctor

Street Address

City State Zip

CERTIFICATION OF HEARING AID INSTRUMENT DISPENSER AND FITTER'S LICENSE
(Must be completed by licensing agency)
 (Print or Type)

Our records indicate that _____ was licensed as a Hearing Aid
 Instrument Dispenser and Fitter on _____ 20 _____. The license/certificate was issued on the
 basis of written examination. _____
 (Name of examination)

<u>Written</u>	Subjects Tested	Grade
	Acoustics: General Principles	_____
	Acoustics: Hearing & Speech	_____
	The Hearing Process	_____
	Disorders of Hearing: Sensori Neural, Central & Non-Organic	_____
	Pure-Tone Audiometry: Air Conduction Audibone Conduction	_____
	Speech Audiometry	_____
	The Hearing Analysis	_____
	Hearing Aids: History, Characteristics, and Components	_____
	Hearing & Fitting	_____
	The earmold: Delivery & Check-up	_____
	Other: _____	_____
	_____	_____
	_____	_____

<u>Practical</u>	Grade
Earmold Impression	_____
Audiometer Operation	_____
Audiometric Testing	_____
Audiograms	_____
Other: _____	_____
_____	_____
_____	_____

The applicant's overall score was _____

Requirements for licensure in _____ at the time this license
 (Issuing State)
 was issued were _____

and are currently: _____

(Copies of regulations/requirements for licensure at the time of issuance of license and present requirements must be attached as documentation.)

Based on the records of this department, the applicant's license:

(a) is in good standing, and so far as our records are concerned,
the applicant is entitled to endorsement.

(b) has been disciplined.

Please explain any disciplinary action:_____

Licensing Agency:_____

Name and Title:_____

Address:_____

City/State/Zip Code:_____

Signature (NO STAMP):_____

Date:_____

Telephone Number: _____
(Optional)

(SEAL)

FORWARD THIS COMPLETED FORM TO: Nebraska Health and Human Services System
Regulation & Licensure
Credentialing Division
Hearing Aid Dispensers and Fitters
PO Box 94986
Lincoln, NE 68509-4986

STATE OF NEBRASKA
 Department of Health and Human Services - Regulation & Licensure
 Credentialing Division
 PO Box 94986
 Lincoln, NE 68509-4986

APPLICATION FOR TEMPORARY LICENSE AS A HEARING AID INSTRUMENT DISPENSER & FITTER

SECTION A - PERSONAL INFORMATION (All applicants must complete this section)			
1.	Name: Last:	First:	Middle/Maiden:
2.	Permanent Mailing Address:	Street/P.O./Route	
	City	State	Zip
3.	Telephone number (optional):		
4.	Date of Birth:	Age:	SSN:
(Attach proof of age: i.e., certified copy of birth certificate, notarized copy of driver's license.)			
5.	Place of Birth:	City/County/State	
6.	MORAL CHARACTER		
	Have you ever been convicted of a misdemeanor or felony?	Yes	No
	If YES, state what crime, date of conviction, name and location of court:		
	**If you answered YES to the above question, you must request the following documents be sent directly to this office:		
	◆ Official Court Record, which includes charges and disposition		
	◆ If the conviction involved a drug and/or alcohol related offense, all addiction/mental health evaluations and proof of treatment (if treatment was obtained and/or required)		
	◆ If you are currently on probation, a letter from your probation officer addressing probationary conditions and your current status		
	◆ A letter from you explaining the circumstances surrounding the conviction(s)		
7.	Has your license in any health care profession in another state been disciplined, suspended, limited or disciplined in any manner?	Yes	No
	**If you answered YES to the above question, you must request the following documents be sent directly to this office:		
	◆ An official copy of the disciplinary action, including charges and disposition.		
8.	Have you actively practiced in Nebraska as a Hearing Aid Instrument Dispenser and Fitter prior to licensure?	Yes	No
	**If yes, how many days have you practiced in Nebraska as a Hearing Aid Instrument Dispenser and Fitter prior to licensure?	Number of days	
9.	Are you licensed or certified in another state?	Yes	No

TEMPORARY LICENSURE FEE \$50.00

SECTION B - Education - (All applicants must complete this section.)				
Name of High School				
Location	Street/PO/Route:			
	City:		State:	Zip:
Diploma	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Year of Graduation	
GED Certificate	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Issued by:	Date:

PLEASE SUBMIT AN OFFICIAL COPY OF YOUR HIGH SCHOOL DIPLOMA, TRANSCRIPT, OR GED CERTIFICATE.

SECTION C - Statement of Good Health: All applicants must have a physician complete and submit the "Statement of Good Health" to the <u>Credentialing Division</u> . (Attachment B2)

SECTION D - Supervisor Information (Supervisor must complete this section.)				
1	Name:	Licensed hearing Aid Instrument Dispenser and Fitter:		
2	Nebraska License Number:			
3	Name of Business			
4	Business Address	Street/PO/Route:		
		City:	State:	Zip:
5	Business Telephone (Optional)			
	Signature of Supervisor:			

SECTION E - Certification (All applicants must complete this section.)

I, _____, hereby certify that the preceding information is correct to the best of my knowledge and I further certify that I am of good moral character.

Signature of Applicant

Date

STATE OF NEBRASKA
Department of Health and Human Services
Regulation & Licensure
Credentialing Division
PO Box 94986
Lincoln, NE 68509-4986

STATEMENT OF GOOD HEALTH HEARING AID INSTRUMENT DISPENSERS AND FITTERS

To the Department of Health and Human Services, State of Nebraska:

I hereby certify that I have this day examined _____
(Name of applicant)

of _____
(Address)

(City)

(State)

(Zip Code)

and have found him/her to be free from infectious or contagious disease.

Dated this _____ day of _____, 20 ____.

Name of Medical Doctor (Please Print)

Signature of Medical Doctor

Street Address

City

State

Zip

STATE OF NEBRASKA
 Department of Health and Human Services
 Regulation & Licensure Credentialing Division
 PO Box 94986
 Lincoln, NE 68509-4986

**HEARING AID INSTRUMENT DISPENSERS AND FITTERS
 AFFIDAVIT OF INITIAL TRAINING CONFERENCES**

SECTION A

Please complete the information on the temporary licensee

Name: _____
 (First) (MI) (Last)

Address: _____
 (Street) (City) (State) (Zip)

Temporary License Number: _____ Issue Date: _____

Social Security Number: _____

SECTION B

Record of Supervisory Conferences: At least 90 days of Initial Training required in the following areas:

- | | |
|--|--|
| Basic physics of sound | The anatomy and physiology of the ear |
| The function of hearing aids | Masking |
| Pure tone audiometry (Including air & bone conduction testing) | Taking earmold impressions |
| Recording and evaluation of audiograms and speech audiometry | Live voice or recorded voice speech audiometry |

DATE: From _____ TO: _____
 (Month/Day/Year) (Month/Day/Year)

Name of Training	Date(s) of training (you may put several dates on one line)

SECTION C (Please sign and file when the 90 day initial training period is completed)

I certify that I am a Nebraska licensed Hearing Aid Instrument Dispenser and Fitter and that the foregoing record of initial training took place on the dates indicated above and that the training was in accordance with the Nebraska Statutes as they relate to Hearing Aid Instrument Dispensers and Fitters in the State of Nebraska.

Name of Supervisor: _____ Today's Date: _____

License Number: _____ Expiration Date: _____

PLEASE SEND A COPY OF THE COMPLETED FORM TO THE ADDRESS ABOVE



State of Nebraska
HHSR&L Credentialing Division
P.O. Box 94986 - Lincoln, NE 68509-4986
Telephone: (402) 471-2299

**APPLICATION FOR WAIVER OF CONTINUING COMPETENCY REQUIREMENTS –
HEARING AID INSTRUMENT DISPENSER AND FITTERS
ATTACHMENT D**

State of Nebraska _____)
_____)ss
County of _____)

WAIVER OF CONTINUING COMPETENCY REQUIREMENTS: If you have not completed the required continuing competency requirements and wish to apply for a waiver, please complete the following information:

___ I AM REQUESTING A WAIVER of _____ continuing education hours.

Check applicable reason(s) for waiver below:

- I hold a Nebraska license but have not engaged in the practice of Hearing Aid Instrument Dispensing and Fitting for the twenty-four (24) months preceding renewal.
- I have served in the regular armed forces of the United States during part of the twenty-four (24) months immediately preceding the licensure renewal date. (Attach official documentation stating dates of service)
- I was first licensed within the twenty-four (24) months immediately preceding the license renewal date.
Date of issuance of license: _____
- I have suffered a serious or disabling illness or physical disability which prevented completion of the required number of continuing competency requirements during the twenty-four (24) months immediately preceding the license renewal date. (Attach a statement from treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to attend continuing education programs during that period.)
- Other, please explain:

I, _____ (name of licensee), depose and say that I am the person named making application and that I have completed this application; and that the information I have provided is true and correct to the best of my knowledge and belief.

Signature of Licensee

Date

STATE OF NEBRASKA
 Department of Health and Human Services
 Regulation & Licensure Credentialing Division
 PO Box 94986
 Lincoln, NE 68509-4986

**HEARING AID INSTRUMENT DISPENSERS AND FITTERS
 AFFIDAVIT OF INITIAL TRAINING CONFERENCES**

SECTION A

Please complete the information on the temporary licensee

Name: _____
 (First) (MI) (Last)

Address: _____
 (Street) (City) (State) (Zip)

Temporary License Number: _____ Issue Date: _____

Social Security Number: _____

SECTION B

Record of Supervisory Conferences: At least 90 days of Initial Training required in the following areas:

- | | |
|---|--|
| Basic physics of sound | The anatomy and physiology of the ear |
| The function of hearing aids | Masking |
| Pure tone audiometry (Including air & bone conduction testing | Taking earmold impressions |
| Recording and evaluation of audiograms and speech audiometry | Live voice or recorded voice speech audiometry |

DATE: From _____ TO: _____
 (Month/Day/Year) (Month/Day/Year)

Name of Training	Date(s) of training (you may put several dates on one line)

SECTION C (Please sign and file when the 90 day initial training period is completed)

I certify that I am a Nebraska licensed Hearing Aid Instrument Dispenser and Fitter and that the foregoing record of initial training took place on the dates indicated above and that the training was in accordance with the Nebraska Statutes as they relate to Hearing Aid Instrument Dispensers and Fitters in the State of Nebraska.

Name of Supervisor: _____ Today's Date: _____

License Number: _____ Expiration Date: _____

PLEASE SEND A COPY OF THE COMPLETED FORM TO THE ADDRESS ABOVE

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Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

Chapter 81 LICENSURE OF MASSAGE THERAPISTS

81-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Massage Therapists under Neb. Rev. Stat. §§38-1701 to 38-1715 and the Uniform Credentialing Act.

81-002 DEFINITIONS

1. Act means Neb. Rev. Stat. §§38-1701 to 38-1715, known as the Massage Therapy Practice Act.
2. Active Addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.
3. Alcohol or Substance Abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:
 - a. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
 - b. Recurrent alcohol or substance use in situations in which it is physically hazardous;
 - c. Recurrent legal problems related to alcohol or substance use; or
 - d. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.
4. Attest or Attestation means that the individual declares that all statements on the application are true and complete. Attestation to meeting continuing competency requirements satisfies the documentation requirement of Neb. Rev. Stat. § 38-142.
5. Board means the Board of Massage Therapy.
6. Client means any person with whom the massage therapist has an agreement to provide massage therapy.
7. Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the fees and all required documentation.
8. Confidential Information means information protected as privileged under applicable law.
9. Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

10. Continuing Competency means activities to ensure:
- a. The maintenance by a credentialed person of knowledge and skills necessary to competently practice massage therapy;
 - 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.

The continuing competency activity may be obtained through one or more of the following types of activities:

1. National Examination;
 2. Publication;
 3. Jurisprudence Examination;
 4. Instructor at a Massage Therapy School;
 5. Practical Examination;
 6. Massage School Training;
 7. College or University Coursework; or
 8. Workshops and Lectures (Continuing Education Programs);
11. Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.
12. Course of Study and Training in Massage Therapy means a course of not less than 1,000 hours, distributed over a term of not less than 9 months. All hours must be gained in a class setting. For purposes of this section, continuing education is not considered study and training in massage therapy. Such study and training must consist of:
- a. 700 hours of the course of study must consist of at least 100 hours in each of the following areas:
 - (1) Anatomy: May include, but is not limited to, structure of the human body, study of cells, tissues, bones, muscles, organ systems, histology, embryology, kinesiology, biomechanics, etc.;
 - (2) Health Service Management: May include, but is not limited, to professional ethics, legalities of massage, business practices, promotion, employment opportunities, oral presentations, telephone techniques, marketing plan, sales techniques, resumes, bookkeeping, financial management, insurance coverage, networking, interview techniques, etc. These hours must be gained under the supervision of a licensed massage therapist;

- (3) Hydrotherapy: May include, but is not limited to, history, benefits of water treatment, cryotherapy, body wraps/masks, salt glows, body scrubs, body shampoos, moisturizers, hot packs, steam cabinets, dry brushing, therapeutic water modalities, methods of cold application, heat therapy, contrast baths, skin contra-irritants, spas, etc. These hours must be gained in a class setting under the supervision of a licensed massage therapist;
 - (4) Hygiene and Practical Demonstration:
 - (a) Hygiene may include but is not limited to physiology of digestion, weight control, herbal therapy, nutrition, food combining, supplementation, wellness, hygiene principles and practices, CPR, first aid, equipment and sanitation, infectious and contagious disease control, etc. These hours must be taught by a licensed massage therapist;
 - (b) Practical Demonstration may include, but is not limited, to various massage therapy techniques and demonstration, hands-on training, student clinic hours, etc. These hours must be taught by a licensed massage therapist;
 - (5) Massage: May include, but is not limited to, history of massage, benefits of massage, physiology of massage, equipment and procedures, psychology of massage, interpersonal client contact, relaxation and visualization, proper draping techniques, general guidelines for massage, principles of body massage, etc. These hours must be taught by a licensed massage therapist;
 - (6) Pathology: May include, but is not limited to, definition of pathology and disease, pharmacology, pathology of body systems, disease entities including cause and effect, blood pressure, pulse monitoring, injury and soft tissue disfunction, etc. These hours must be taught by a licensed massage therapist or a person with appropriate training in the subject matter; and
 - (7) Physiology: May include, but is not limited to, endocrinology, biochemistry, interaction of hormones to the body's balance and metabolism, function of human body, and organ systems, kinesiology, biomechanics, etc. These hours must be taught by a licensed massage therapist or a person with appropriate training in the subject matter; and
- b. The remaining 300 hours must be obtained in subject areas related to the clinical practice of massage therapy which may include, but is not limited to, reflexology, deep tissue massage, Swedish massage, sports massage, pregnancy and infant massage, physiology and psychology of exercise, acupressure therapy, management techniques, stress and practices, hands-on-training, review of health histories and documentation, National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), National Certification Examination for Therapeutic Massage (NCETM), Advanced Clinical Examination

(ACE) or Massage and Bodywork Licensing Examination (MBLEx) topics, etc. These hours must be gained under the on-site supervision of a licensed massage therapist or health care professional whose scope of practice includes massage techniques.

13. Credential means a license, certificate, or registration.
14. Department means the Division of Public Health of the Department of Health and Human Services.
15. Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:
 - a. Tolerance as defined by either of the following:
 - (1) A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - (2) A markedly diminished effect with continued use of the same amount of alcohol or the substance;
 - b. Withdrawal as manifested by either of the following:
 - (1) The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - (2) Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
 - c. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
 - d. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
 - e. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
 - f. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
 - g. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.
16. Director means the Director of Public Health of the Division of Public Health or his/her designee.
17. Inactive Credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.
18. License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

19. Licensure Examination means:
- a. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), National Certification Examination for Therapeutic Massage (NCETM) or Advanced Certification Examination (ACE) developed by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB);
 - b. The Massage and Bodywork Licensing Examination (MBLEx) developed by the Federation of State Massage Therapy Boards (FSMTB); or
 - c. Other equivalent examinations as approved by the board.
20. Massage Therapist means a person licensed to practice massage therapy.
21. Massage Therapy means the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy. It does not include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry is required nor the use of microwave diathermy, shortwave diathermy, ultrasound, transcutaneous electrical nerve stimulation, electrical stimulation of over thirty-five volts, neurological hyperstimulation, or spinal and joint adjustments.
- a. Well-being includes, but is not limited to:
 - (1) Remediation, such as myofacial release, active/passive stretching, and similar modalities;
 - (2) Relaxation, such as Swedish Massage, hot stone, and similar modalities; and
 - (3) Holistic, such as Ortho-Bionomy®, polarity, shiatsu, reflexology, acupressure, and similar techniques.
 - b. Mechanical or electrical manipulation includes, but is not limited to, the use of the following equipment:
 - (1) Electrical stimulation equipment under 35 volts output;
 - (2) Oscillating (vibrating) equipment; and
 - (3) Hydrotherapy equipment.
22. Military Service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)
23. NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 81.
24. Official means issued by and under the original seal of the educational institution.

25. Pattern of Incompetent or Negligent Conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.
26. Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. §38-121.
27. Program Sponsor means an individual or organization that sponsors continuing competency programs to licensees.
28. Served in the Regular Armed Forces has the same meaning as "military service" in these regulations.

81-003 INITIAL and RECIPROCITY LICENSE REQUIREMENTS: Any person who wishes to practice massage therapy must obtain a license.

81-003.01 Qualifications: To receive a credential to practice massage therapy, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment in the United States;
3. Education: Have completed a course of study and training in massage therapy not less than 1,000 hours, distributed over a term of not less than 9 months as specified in 172 NAC 81-002, item 12, which includes at least:
 - a. 100 hours in each of the following areas:
 - (1) Anatomy;
 - (2) Health Service Management;
 - (3) Hydrotherapy;
 - (4) Hygiene and Practical Demonstration;
 - (5) Massage;
 - (6) Pathology;
 - (7) Physiology; and
 - b. The remaining 300 hours must be obtained in subject areas related to the clinical practice of massage therapy; and

Reciprocity: An applicant who is licensed in another jurisdiction and has not completed 1,000 hours of training in massage therapy, may obtain hours to equal the required 1,000 hours of training through a massage therapy program, a college/university, work experience and/or continuing education. The applicant is not required to have attained the specified hours in the areas identified in 81-003.01, items_3a and 3b. Hour equivalents may be granted in the following manner:

- (1) 50-60 minutes equals 1 hour obtained from a course of study in massage therapy;
- (2) 1 semester credit hour of massage therapy related college/university hours equals 15 hours;
- (3) 100 hours for each year of full-time practice as a massage therapist; and/or
- (4) Up to 100 hours obtained from NCBTMB or FSMTB approved continuing education programs.

4. Examination: Have received a passing score on the licensure examination as set by NCBTMB or FSMTB and approved by the Board.

Reciprocity: An applicant who is licensed in another jurisdiction must also successfully pass the Board developed jurisprudence examination, with a score of at least 75%.

81-003.02 Application: To apply for a credential to practice massage therapy, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following

1. Written Application:

- a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address: street, rural route, or post office address; and city, state, and zip code, or country information;
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or

- (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced massage therapy in Nebraska before submitting the application; or
 - (2) If s/he has practiced massage therapy in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and business name and location of practice; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 81-007 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.
- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Age: Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Good Character: Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.

The applicant must have the licensing agency submit to the Department a certification of his/her credential;

- (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial; and
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) who is eligible for a credential under the Uniform Credentialing Act;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise

- known as a "Green Card");
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#") with visa status; or
 - (14) A Form I-94 (Arrival-Departure Record) with visa status;
- e. Education: Documentation of education, including:
- (1) An official transcript showing that s/he has completed a course of study and training in massage therapy
 - (2) Name and date of diploma/degree awarded; and
 - (3) Name of school, college, university that awarded the diploma/degree;
- Reciprocity: An applicant who is licensed in another jurisdiction may also submit evidence of college/university coursework, work experience and/or continuing education as defined in 172 NAC 81-003.01, item 3.
- f. Examination: Documentation that the applicant:
- (1) Requested that the examination rating/grades be sent directly to the Department from the appropriate examination service or State Board Office;
 - (2) Submitted a completed request for special accommodations, if special testing accommodations are needed by the applicant; and
 - (3) Submitted any other documentation as requested by the Board/Department; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
- a. Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

81-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

81-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC 81-008, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

81-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

81-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 81-011 or such other action as provided in the statutes and regulations governing the credential.

81-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

81-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

81-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

81-004 TEMPORARY MASSAGE THERAPY LICENSE REQUIREMENTS

81-004.01 Qualifications and Limitations: A temporary license to practice massage therapy may be granted to any person who meets all the requirements for a license except passage of the licensure examination or if the individual is applying for licensure by reciprocity as specified in 172 NAC 81-003. A temporary license is subject to the following requirements and limitations:

1. A temporary licensee must be supervised in his or her practice by a licensed massage therapist.
2. A temporary license will be valid for 60 days or until the temporary licensee takes the examination, whichever occurs first. In the event a temporary licensee fails the examination required by such section, the temporary license will be null and void, except that the department, with the recommendation of the board, may extend the temporary license upon a showing of good cause why such license should be extended. A temporary license may not be extended beyond six months.
3. A temporary license will not be issued to any person failing the examination if such person did not hold a valid temporary license prior to his or her failure to pass the examination.

81-004.01A Reciprocity: An applicant who is licensed in another jurisdiction may apply for a temporary license to practice massage therapy if s/he is completing the additional hours necessary to equal 1,000 hours as defined in 172 NAC 81-003.01, item 3 or needs to take the licensure examination.

81-004.02 Application: To apply for a temporary credential to practice massage therapy, the individual must submit a complete application for initial licensure or reciprocity to the Department as described in 172 NAC 81-003.02. A complete application includes all required documentation, the required fee, and a written application. The applicant may

obtain an application from the Department or construct an application that must contain all the required documentation under 172 NAC 81-003.02. In addition to the application for initial licensure, the following must be submitted to the Department:

1. Supervisor and Establishment Information: The applicant must provide the:
 - (1) Name and license number of supervisor;
 - (2) Signature of licensee who agrees to supervise;
 - (3) Name of establishment where supervision will occur;
 - (4) Address of establishment; and
 - (5) Telephone number of establishment (optional);
2. Fee: The required temporary license fee.

81-004.03 Standards for Supervision: The supervisor of a person who holds a temporary massage therapy license must:

1. Be present at the location where the temporary licensee is providing massage therapy services;
2. Consult with and direct the actions of a person who holds a temporary license to practice massage therapy; and
3. Immediately notify the Department when supervision of the temporary licensee is terminated.

81-004.04 License Extension Circumstances: The Department, upon recommendation of the Board, may grant an application for extension of a temporary license when the applicant has applied to retake the licensure examination and shows good cause why such license should be extended. Circumstances which may result in extension of the temporary license may include but are not limited to:

1. The applicant became ill during the licensure examination to the extent that s/he could not complete the examination;
2. The applicant had to leave the licensure examination due to inclement weather conditions which caused the applicant to be unable to complete the examination; or
3. The applicant suffered an incapacitating injury prior to the licensure examination which allowed him/her to take the examination but affected his/her ability to perform well on the examination.

84-004.05 License Extension Limitations: A temporary licensee who fails the licensure examination may apply for an extension of his/her temporary license to practice massage therapy, subject to the following requirements and limitations:

1. A temporary license may not be extended beyond 6 months; and
2. An applicant for extension of a temporary license must submit a written request for extension, stating the reason(s) for said request.

81-004.06 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

81-004.07 Denial of Credential: If an applicant for a temporary credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC 81-008, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

81-004.08 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

81-004.09 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 81-011 or 81-01281-012 such other action as provided in the statutes and regulations governing the credential.

81-004.10 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

81-004.11 Address Information: Each credential holder must notify the Department of any change to the address of record.

81-004.12 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

81-005 EXAMINATION: To take the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), National Certification Examination for Therapeutic Massage (NCETM), Advanced Certification Examination (ACE) or Massage and Bodywork Licensing Examination (MBLEx), an applicant must apply directly to the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) or the Federation of State Massage Therapy Boards (FSMTB).

81-006 CONTINUING COMPETENCY: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession. Except as otherwise provided in 172 NAC 81-007.03, the Department will not renew the credential of any person who has not complied with these requirements. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

81-006.01 General Requirements: On or before November 1 of each odd-numbered year, each licensed massage therapist who is in active practice in the State of Nebraska must complete 24 hours of approved continuing competency hours/credits during the preceding 24 month period. Additional hours earned during this period which are above and beyond the required 24 hours can not be utilized for subsequent renewals.

81-006.02 Types of Activities: Licensees must earn 24 hours/credits through a combination of the following types of activities.

1. Mandatory Hands-on Hours: A licensee must complete at least 14 hours of approved hands-on continuing education through workshops each renewal period (1 hour of attendance = 1 credit). A licensee may earn all 24 hours through hands-on workshops. These hours must meet the following:
 - a. The content of the workshop(s) must include at least 75% HANDS-ON technique which is the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy; up to 25% may be theory related to hands-on technique; and
 - b. The agenda must reflect a set period of time for class participation (hands-on practice).
2. Mandatory Ethics Hours: Each licensee must obtain at least 3 hours in ethics; and
3. Optional Hours: A licensee may earn the remaining credits in one or a combination of the following continuing competency activities:
 - a. National Examination. 7 credits will be granted for licensees who successfully pass the examination;
 - b. Publication. 7 credits will be granted for an article published in a professional health related journal; a newsletter article or letter to the editor does not meet this requirement;
 - c. Jurisprudence Examination on State Laws (50 question take home test). 3 credits will be granted for licensees who receive a score of 75% or above;
 - d. Instructor at a Massage Therapy School. 1.5 credits will be granted for each hour of teaching up to a maximum of 7 hours;
 - e. Practical Examination (must be administered by a Nebraska Licensed Massage Therapy School). 3 credits will be granted;
 - f. Massage School Training / College or University Coursework (resident/distance. 1 hour of training = 1 credit, 1 semester college credit hour = 15 credits, 1 quarter college credit = 10 credits, up to a maximum of 7 credits;
 - g. Workshops and Lectures (Continuing Education Programs). 1 credit will be granted for each 50 minutes of participation up to a maximum of 7 credits;

- h. Homestudy Programs: Only homestudy programs relating to ethics will be acceptable for renewal. Up to a maximum of 7 credits will be granted.
4. Presenter Credit: If the licensee is a presenter, s/he must maintain documentation of his/her presentation of continuing competency activity. A presenter may receive credit for only the initial presentation during a renewal period.

81-006.03 Acceptable Topic Areas:

81-006.03A Hands-on or Non Hands-on Workshops: The following are the acceptable topic areas for continuing competency that may or may not apply to the mandatory 14 hours of continuing education earned through hands-on workshops. The method of delivery of the program determines hands-on or non hands-on.

1. Hydrotherapy - May include, but is not limited to, history, benefits of water treatment, cryotherapy, body wraps/masks, salt glows, body scrubs, body shampoos, moisturizers, hot packs, steam cabinets, dry brushing, therapeutic water modalities, methods of cold application, heat therapy, contrast baths, skin contra-irritants, spas, etc.;
2. Massage - May include, but is not limited, to history of massage, benefits of massage, physiology of massage, equipment and procedures, psychology of massage, interpersonal client contact, relaxation and visualization, proper draping techniques, general guidelines for massage, principles of body massage, reflexology, deep tissue massage, Swedish massage, sports massage, pregnancy & infant massage, etc.; or
3. Other Topic Areas - May include topics covered on the NCBTMB, NCETM, ACE or MBLEx examination, such as but not limited to: western, non-western, energy work, Chinese medicine, holistic principles, stress management, CPR, first aid, and acupressure therapy.

81-006.03B Non Hands-on Workshops: The following are the acceptable topic areas for continuing competency (these do not apply to the mandatory 14 hours of continuing education earned through hands-on workshops):

1. Anatomy - May include, but is not limited, to structure of the human body, study of cells, tissues, bones, muscles, organ systems, histology, embryology, kinesiology, biomechanics, etc.;
2. Health Service Management - May include, but is not limited to, professional ethics, Nebraska Massage Therapy statutes and regulations, legalities of massage, business practices, promotion, employment opportunities, oral presentations, telephone techniques, marketing plan, sales techniques, resumes, bookkeeping, financial management, insurance coverage, networking, interview techniques; etc.;
3. Hygiene - May include, but is not limited, physiology of digestion, weight control, herbal therapy, nutrition, food combining, supplementation, wellness, hygiene principles and practices, CPR, first aid, equipment and sanitation, infectious and contagious disease control; etc.;

4. Pathology - May include, but is not limited to, definition of pathology and disease, pharmacology, pathology of body systems, disease entities including cause and effect, blood pressure, pulse monitoring, injury and soft tissue disfunction, etc.;
5. Physiology - May include, but is not limited, to endocrinology, biochemistry, interaction of hormones to the body's balance and metabolism, function of human body, and organ systems, kinesiology, biomechanics, etc.;
6. Ethics: Must include massage practice related ethics. Programs relating to ethics may be earned through workshops or homestudy programs.

81-006.03C Acceptable Continuing Competency Programs/Activities: The Board or Department does not approve continuing competency programs/activities. In order for a continuing competency activity/program to be accepted for renewal or reinstatement of a license, the activity must meet the following criteria:

1. The program must be at least 50 minutes in duration;
2. The program topic must relate to the topic areas listed in 172 NAC 81-006.03A, except that the 14 mandatory hours must be HANDS-ON massage which is the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy;
3. The program's objectives must relate to the specified topic areas;
4. The presenter of the program must be qualified by education, experience, or training;
5. Programs must be open to all massage therapists licensed in Nebraska;
6. The program sponsor must employ a system to obtain feedback and knowledge obtained by the licensee; and
7. The Program Sponsor must issue proof of licensee attendance. Such proof must include:
 - a. Name of the program;
 - b. Date of the program;
 - c. Location of the program;
 - d. Name of the licensee who attended the program; and
 - e. Name of the program sponsor.

81-006.03D Publications: In order for a publication to be accepted for renewal or reinstatement of a license, the publication/article objectives must relate to topic areas defined in 172 NAC 81-006.03B.

81-007 RENEWAL: An individual who wants to renew his/her massage therapy credential must request renewal as specified in 172 NAC 81-007.02. All massage therapy credentials issued by the Department will expire on November 1st of each odd-numbered year.

81-007.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

81-007.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. **Application:** The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#) or Form I-94 (Arrival-Departure Record) number;Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act;
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
 - c. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - d. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in

- 172 NAC 81-006 or has requested a waiver if s/he meets the requirements of 172 NAC 81-007.03 and/or 81-007.04;
- (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 81-008.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Alien or Non-Immigrant: Evidence of lawful permanent residence, and/or immigration status may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
 - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the

- behaviors/actions related to the convictions;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (6) Any other information as requested by the Board/Department; and

3. The renewal fee according to 172 NAC 2.

81-007.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 81-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

- 1. Military identification proving that s/he is in active service;
- 2. Military orders; or
- 3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

81-007.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

81-007.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

81-007.05A The Department/Board will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

81-007.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

81-007.05C Acceptable documentation that the credential holder has met the continuing competency requirements include copies of:

1. Certificates of attendance;
2. Attendance rosters;
3. Transcripts or grade reports;
4. Letters from sponsors of continuing education verifying attendance; or
5. Other similar documentation.

81-007.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

81-005.05E The Department/Board will notify the credential holder upon satisfactory completion of the audit.

81-007.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

81-007.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

81-007.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

81-007.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

81-007.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

81-007.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

81-007.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

81-007.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

81-007.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice massage therapy expires.

81-007.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 81-011 or such other action as provided in the statutes and regulations governing the credential.

81-007.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of massage therapy after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 81-010.

81-007.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

81-007.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

81-007.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of massage therapy, but may represent him/herself as having an inactive credential.

81-007.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 81-010.

81-008 DISCIPLINARY ACTIONS

81-008.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;

5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 81-008.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the Uniform Controlled Substances Act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 81-008.02; or
24. Violation of the Automated Medication Systems Act.

81-008.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
 - d. By a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act;
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency:
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession; and
14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care.

81-008.02A Competence: A massage therapist must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of Massage Therapy includes, but is not limited to:

1. Willfully or intentionally committing any act which endangers client safety or welfare; and
2. Encouraging or promoting massage therapy by untrained or unqualified persons.

81-008.02B Public Statements: A massage therapist must be accurate and objective when advertising regarding professional services or products. Unprofessional conduct includes but is not limited to:

1. Advertising of massage therapy services which contains:
 - a. A false, fraudulent, misleading, deceptive statement;
 - b. A testimonial which attests to the performance of massage therapy in a superior manner or professional superiority; or
 - c. A statement concerning the comparative desirability of offered services;
2. Giving anything of value to a representative of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item;
3. Advertising for massage products offered for commercial sale without making reasonable efforts to ensure presentation of nondeceptive, accurate, or nonmisleading statements;
4. Knowingly permitting others to misrepresent the massage therapist's professional qualifications or the massage therapist's affiliation with products for personal gain of the massage therapist; and
5. Making deceptive or misleading representations of the massage therapist's education, training, or experience.

81-008.02C Confidentiality: A massage therapist must hold in confidence information obtained from a client, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law. Failure to do so constitutes unprofessional conduct.

81-008.02D Professional Relationships: A massage therapist must safeguard the welfare of clients and maintain appropriate professional relationships with clients and temporary licensees. Unprofessional conduct includes but is not limited to:

1. Using skills of the massage therapist to exploit clients;
2. Intentional failure to report to the Board of Massage Therapy known unprofessional conduct by a massage therapist;
3. Failure to decline to carry out massage therapy services that have been requested when such services are believed to be contraindicated or unjustified;
4. Failure to exercise appropriate supervision over a temporary licensee who is authorized to practice only under the supervision of the licensed massage therapist;
5. Willful betrayal of a professional secret except as otherwise provided by law;

6. Verbally or physically abusing clients or engaging in cruel, inhumane, or degrading practice in providing massage therapy to a client; or
7. Willful or intentional failure to accurately represent his/her skills to a client.

81-008.02E Sexual Misconduct: A massage therapist must under no circumstances engage in sexual acts with clients. Such unprofessional conduct includes, but is not limited to:

1. Providing sexual stimulation as part of massage therapy;
2. Soliciting a sexual relationship with a client;
3. Committing an act with a client punishable as a sexual or sexual related offense; or
4. Engaging in sexual harassment of a client. Sexual harassment means deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unnecessary in the professional relationship with the client.

81-008.02F Draping: A massage therapist must maintain appropriate draping for each client to ensure the comfort level of both the therapist and client.

81-008.03 Temporary Suspension or Limitation

81-008.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 81-008.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

81-008.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

81-008.03C A temporary suspension or temporary limitation of a credential under 172 NAC 81-008.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

81-008.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

81-008.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

81-008.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 81-008.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

81-009 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.

3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

81-009.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

81-009.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

81-009.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

81-009.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

81-009.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

81-009.06 Reinstatement following voluntary surrender is set out in 172 NAC 81-010.

81-010 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

81-010.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;

If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful permanent residence and/or immigration status which may include a copy of:

- (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must indicate that s/he:
- (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 81-006 within the 24 months immediately preceding submission of the application;
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 81-008 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.

2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

81-010.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Assess an administrative penalty pursuant to 172 NAC 81-011, in which case a separate notice of opportunity for hearing will be sent to the applicant;
2. Deny the application to reinstate the credential;
3. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
4. Reinstate the credential.

81-010.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

81-010.01C The Department will act within 150 days on all completed applications.

81-010.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

81-010.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 81-010.01.

81-010.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or

- (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States; If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful permanent residence and/or immigration status which may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 81-006 within the 24 months immediately preceding submission of the application;
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 81-008 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.

2. Fee: The renewal fee.

81-010.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

81-010.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for

- a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
 4. Require the applicant to successfully complete additional education at the expense of the applicant;
 5. Require the applicant to successfully pass an inspection of his/her practice site; or
 6. Take any combination of these actions.

81-010.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 81-010.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 81-011, in which case a separate notice of opportunity for hearing will be sent to the applicant.

81-010.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

81-010.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

81-010.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day

period.

- a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

81-010.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

81-010.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

81-010.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

81-011 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

81-011.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Water well registrations or other government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

81-011.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in

such action attorney's fees and costs incurred directly in the collection of the administrative penalty.

2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

81-011.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

81-012 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

These Amended Rules and Regulations Replace Title 172, Chapter 81, Regulations Governing the Practice of Massage Therapy, effective January 3, 2005.

Approved by the Attorney General:	February 18, 2010
Approved by the Governor:	May 6, 2010
Filed with the Secretary of State:	May 6, 2010

Effective Date: **May 11, 2010**

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 82 LICENSURE OF MASSAGE THERAPY ESTABLISHMENTS

82-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of massage therapy establishments under Neb. Rev. Stat. §§38-1701 to 38-1715 and the Uniform Credentialing Act (UCA).

82-002 DEFINITIONS

1. Act means Neb. Rev. Stat. §§38-1701 to 38-1715, known as the Massage Therapy Practice Act.
2. Attest or Attestation means that the individual declares that all statements on the application are true and complete.
3. Board means the Board of Massage Therapy.
4. Business/Establishment means a person engaged in providing massage therapy services.
5. Client means a person receiving health or health-related services and includes a patient, client, resident, customer, or person with a similar designation.
6. Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.
7. Confidential information means information protected as privileged under applicable law.
8. Credential means a license, certificate, or registration.
9. Department means the Division of Public Health of the Department of Health and Human Services.
10. Director means the Director of Public Health of the Division of Public Health or his or her designee.
11. Implement means an electrical or mechanical tool, instrument, or a similar device. Examples are brushes, electrical massagers, hot stones, shells, hand tools, and any tool that comes in contact with the client.
12. License means an authorization issued by the Department to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

13. Massage Therapist means a person licensed to practice Massage Therapy.
14. Massage Therapy Establishment means any duly licensed place in which a massage therapist practices his/her profession of massage therapy. This does not include:
 - a. On-site massage performed at the location of the client;
 - b. Stand-alone devices, such as chairs, which are operated by the customer; or
 - c. Establishments located within the confines of a hospital, nursing home, or other similar establishment or facility licensed or otherwise regulated by the Department of Health and Human Services.
15. NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 82.
16. Successfully Completed Self Evaluation Inspection or an On-site Inspection means received an affirmative rating on each standard specified in 172 NAC 82-004 through 172 NAC 82-005 during an inspection.

82-003 MESSAGE THERAPY ESTABLISHMENT LICENSE: Any person who wishes to operate a massage therapy establishment must obtain a license.

82-003.01 Qualifications: To receive a credential to operate a massage therapy establishment, an individual must meet the following qualifications:

1. Employ a massage therapist(s) who holds an active license;
2. Have adequate space for providing massage therapy services;
3. Have restroom facilities;
4. Complete a self evaluation inspection report showing compliance with 172 NAC 82, section 004.

82-003.02 Application: To apply for a credential to operate a massage therapy establishment, a business must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. The full name and address of the business;
 - b. The full name and address of the owner of the business;
 - c. The name of each person in control of the business;
 - d. The Social Security Number of the business owner if the applicant is a sole proprietorship;
 - e. Telephone number including area code (optional);
 - f. E-Mail Address (optional);
 - g. Fax Number (optional);

- h. Signature of:
 - (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (2) Two of its members if the applicant is a limited liability company that has more than one member;
 - (3) Two of its officers if the applicant is a corporation;
 - (4) The head of the governmental unit having jurisdiction over the business if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in items (1) through (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official;
 - i. Practice Before Application: The applicant must state:
 - (1) That s/he has not operated this establishment in Nebraska before submitting the application; or
 - (2) If s/he has operated this establishment in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;
 - j. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) If the applicant is a sole proprietorship, that s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;
2. Documentation: The applicant must submit the following documentation with the application:
- a. Employment of a duly licensed massage therapist(s);
 - b. Adequate space for providing massage therapy services;
 - c. Restroom facilities;
 - d. A floor plan of the proposed establishment, including:
 - (1) Establishment square footage;
 - (2) Restroom(s) location; and
 - (3) Connecting buildings/living space; and
 - e. A copy of the completed self evaluation inspection report showing compliance with 172 NAC 82-004; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

- a. Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

82-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing. If the application meets the licensing requirements the Department will issue a license. Within 90 days following issuance of the license, the Department will conduct an on-site inspection for the purpose of assuring compliance with the inspection requirements set out in 172 NAC 82-004.

82-003.04 Denial of Initial Credential: If an applicant for an initial credential to operate a business does not meet all of the requirements for the credential or if the applicant is found to have done any of the grounds listed in 172 NAC 82-010, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within the 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

82-003.05 Withdrawn Applications: An applicant for a business who withdraws his/her application or whose application is rejected by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

82-03.06 Operating a Business without a Credential: The Department may assess an administrative penalty or take such other action as provided in the statutes and regulations governing the credential when evidence exists of operating a business prior to issuance of a credential. See 172 NAC 82-013.

82-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

82-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

82-003.08 License Not Transferable: A license is issued only for the premises named in the application and is not transferable or assignable. A change of owner or location terminates the license.

82-004 INSPECTIONS: All massage therapy establishments will receive an initial and thereafter, a routine inspection. The criteria for inspection required by the Board and Department is set forth below:

1. Initial Self-Evaluation Inspection: Under 172 NAC 82-003.01, the applicant must conduct a self-evaluation inspection prior to the proposed opening date of the establishment.
2. Initial On-Site Inspection: The Board and/or Department will conduct an on-site inspection within 90 days following issuance of an initial establishment license. The inspections are limited to ascertaining whether:
 - a. All massage therapists working on the premises are properly licensed;
 - b. The equipment and sanitation requirements in 172 NAC 82-004 are met;
 - c. The physical structure requirements in 172 NAC 82-004 are met; and
 - d. The duties of the massage therapist and manager and/or owner in 172 NAC 82-004 and 82-006 are met.
3. Routine Inspection: A routine inspection will be conducted to assure compliance with 172 NAC 82-004.01 and 82-004.02. The inspection will be conducted by the Board and/or Department.
 - a. The inspection will occur at least one time every 4 years.
 - b. The inspection is limited to ascertaining whether:
 - (1) All massage therapists working on the premises are properly licensed;
 - (2) The equipment and sanitation requirements in 172 NAC 82-004 are met;
 - (3) The physical structure requirements in 172 NAC 82-004 are met; and
 - (4) The duties of the massage therapist and manager and/or owner in 172 NAC 82-004 and 82-006 are met.

82-004.01 Structure, Equipment, and Sanitation: The massage therapy establishment must have the equipment necessary to provide massage therapy. This equipment must be clean, well-maintained, and in good repair.

1. Physical Structure: A massage therapy establishment must have a clearly identifiable location; each massage therapy establishment can be free-standing or part of an existing structure. The owner must ensure that the establishment is well ventilated and kept in a clean, orderly, and sanitary condition at all times.
 - a. All rooms must have adequate lighting and ventilation;
 - b. Each establishment must have an area that can be screened from public view for customers requesting privacy; and
 - c. Each room where massage therapy services are provided must have an EPA registered disinfectant that is proven effective against HIV-1, or Hepatitis B, or is a Tuberculocidal, and have liquid soap and water or an instant sanitizer;

2. Water: The owner must ensure that the establishment has a supply of hot and cold running water in sufficient quantities to conduct business in the establishment in a sanitary manner.
3. Safety: The owner must maintain the establishment in a safe condition. S/he must ensure that:
 - a. Floors, floor coverings, walls, woodwork, ceilings, furniture, fixtures and equipment are clean and safe;
 - b. Floors are free of unsafe objects and slippery or uneven surfaces;
 - c. Doors, stairways, passageways, aisles, or other means of exit provide safe and adequate access;
 - d. Electrical appliances or apparatus are clean and have no worn or bare wiring to avoid fires, shocks, and electrocution;
 - e. Water or product spills on the floor are removed immediately and floor dried to avoid falls; and
 - f. If candles are used in the establishment, the candle(s) must be on a surface where they are securely supported on a substantial noncombustible base and the candle flame is protected.
4. Restroom Facilities: A restroom must be available on the premise.
5. Massage Tables and Chairs: The owner must ensure that all tables and chairs are safe and in a sanitary condition at all times:
 - a. Tables/chairs with no sheeting/pad must be disinfected between clients with an EPA-registered disinfectant that is proven effective against HIV-1, or Hepatitis B, or is a Tuberculocidal;
 - b. Clean linens must be used for each client; and
 - c. Sheeting/pads that come in direct contact with the client or have been soiled must be removed, disinfected, or cleaned between clients.
6. Storage: The owner must ensure that storage within the establishment meets the following requirements:
 - a. Flammable and combustible chemicals are stored away from potential sources of ignition such as an open flame or an electrical device;
 - b. Storage units:
 - (1) Cabinets, drawers, containers used for storage of tools, equipment, instruments and towels/linens are clean; and
 - (2) Tools, equipment, instruments, or towels/linens which have been used on a client are not placed in a container with clean tools, equipment, instruments, or towels/linens.

7. Towels/Linens: The owner must ensure that all towels and linens are clean and sanitary for each client and meets the following requirements:
 - a. Used Towel and Linen Storage:
 - (1) Cloth towels and linens are deposited in a closed receptacle after use;
 - (2) Used cloth towels and linens are not used again until properly laundered; and
 - (3) Disposable towels are discarded in a covered waste receptacle immediately following each service.
 - b. Clean Towel and Linen Storage: All clean towels are stored in a clean, enclosed, dust-proof cabinet or container until used. Pillows are not required to be stored in a cabinet or container, but must have a clean covering before contact with a client.
8. Products: The owner must ensure that the use of products in the establishment meets the following requirements:
 - a. All liquids, creams, and other products are kept in clean, closed containers;
 - b. Original product bottles and containers have an original manufacturer label, which discloses their contents;
 - c. All products used on a client must be dispensed by a spatula, scoop, spoon, squeeze bottle, pump, dropper, or similar dispenser so that the remaining product is not contaminated;
 - d. If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container is labeled to identify the product; and
 - e. Products applied to one client cannot be removed and reused on another client.
9. Methods of Disinfection: The owner must ensure that all electrical and/or mechanical tools, instruments, implements, and equipment are disinfected before use on a client, by using one of the following two procedures:
 - a. Procedure One:
 - (1) Spray, immerse, soak, or saturate the implement until it is totally saturated with an EPA-registered disinfectant that is proven effective against HIV-1, or Hepatitis B, or is a Tuberculocidal;
 - (2) Before removing the sanitized implement(s), wash hands with liquid soap and water or antibacterial solution;
 - (3) Rinse implement;
 - (4) Prior to storing, air-dry on a sanitary surface or dry with a clean sanitized towel; and
 - (5) Store in a clean enclosed cabinet or covered container reserved for clean implements until used.

b. Procedure Two:

- (1) Autoclave implements in accordance with the manufacturers instructions; and
- (2) Autoclaves must be cleaned and serviced at the frequency recommended by the manufacturer.

Foot baths/foot spas, showers, and hot tubs are disinfected with an EPA registered disinfectant that is proven effective against HIV1, or Hepatitis B, or is a Tuberculocidal and in accordance with the manufacturers instructions.

Paraffin wax machines must be kept clean. Paraffin wax removed from one client must not be re-melted and used by another client.

10. Activities Not Allowed: While in the establishment, the owner and massage therapist must not engage in or allow any other person, including clients, to engage in any of the following activities:
 - a. Smoking in the massage room; and
 - b. Licensees must not use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises during the hours the establishment is open to the public.

82-004.02 Documents and Records: The owner must ensure that:

1. The license to operate the massage therapy establishment is displayed in a conspicuous location at the massage therapy establishment;
2. There is a sign containing the name of the massage therapy establishment. The sign must be in a conspicuous location at the entrance to the massage therapy establishment;
3. The license of each massage therapist who practices massage therapy in the massage therapy establishment is displayed in a conspicuous location at the massage therapy establishment; and
4. The establishment has one copy of the latest edition of the Massage Therapy Practice Act and one copy of the latest edition of 172 NAC 81 and 82.

82-005 CRITERIA FOR SUCCESSFUL COMPLETION OF A MASSAGE THERAPY ESTABLISHMENT INSPECTION: Each establishment must successfully complete an inspection to receive a license to operate. The rating system for inspections are set forth below:

82-005.01 Initial Inspection:

82-005.01A The inspector will issue a rating of "Satisfactory" on all initial inspections when the establishment receives an overall inspection rating of 100%.

82-005.01B The inspector will issue a rating of "Unsatisfactory" on all initial inspections when the establishment receives an overall inspection rating of less than 100%.

1. When an establishment receives a rating of "Unsatisfactory", the Department will forward to the establishment Owner(s), written notification that the establishment license has been placed on a probationary status until all deficiencies cited during the inspection are corrected. The establishment has 15 days from the date of the initial inspection to correct the deficiencies.
2. The inspector will conduct a re-inspection of the establishment within 15 days of receipt of verification that all corrections cited on the inspection report are corrected.
 - a. If the establishment meets the requirements at the time of re-inspection, the inspector will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.
 - b. If the establishment receives an "Unsatisfactory" rating, after the re-inspection, the Department will, within 10 days of the completion of the re-inspection, give notice to the establishment that the license is suspended. The Department will send a written notice to the owner(s) by certified mail stating:
 - (1) The establishment license is suspended;
 - (2) The reasons for the establishment license suspension; and
 - (3) The establishment license suspension will become final 30 days after the mailing of the notice of suspension unless the Owner(s) submits a written request for a hearing within such 30 day period.
 - c. Upon receipt of a written request for a hearing, the Owner(s) will be given a hearing before the Department. The Owner(s) must make a written request to the Department for a hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and

184 NAC 1, Rules of Practice and Procedure for the Department.

- d. The Department's decision regarding the suspension of the license will become final 30 days after a copy of the decision is mailed to the Owner(s), unless the Owner(s) appeals the decision.

82-005.01C When an establishment license is suspended for failure of an initial inspection and if the Owner(s) wishes to operate the establishment, the applicant must reapply to the Department for a license to operate as specified in 172 NAC 82-003.

82-005.01D Failure to permit an inspection for the purposes set out in 172 NAC 82-004 and 82-005.01 is grounds for denial of an initial massage therapy establishment license or for suspension of a massage therapy establishment's existing license.

82-005.01E The inspector will record the inspection results on a form provided by the Department.

82-005.02 Routine Inspection

82-005.02A The inspector will issue a rating of "Satisfactory" on all routine inspections when the establishment receives an overall inspection rating of 100%.

82-005.02B The inspector will issue a rating of "Unsatisfactory" on all routine inspections when the establishment receives an overall inspection rating of less than 100%.

1. When an establishment receives a rating of "Unsatisfactory", the Department will forward to the establishment Owner(s)/Board of Directors, written notification that the establishment license has been placed on a probationary status until all deficiencies cited during the inspection are corrected. The establishment has 30 days from the date of the initial inspection to correct the deficiencies.
2. The inspector will conduct a re-inspection of the establishment within 15 days of receipt of verification that all corrections cited on the inspection report are corrected.
 - a. If the establishment meets the requirements at the time of re-inspection, the inspector will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.
 - b. If the establishment receives an "Unsatisfactory" rating, after the re-inspection, the Department will, within 10 days of the completion of the re-inspection, give notice to the establishment

that the license is suspended. The Department will send a written notice to the owner(s) by certified mail stating:

- (1) The establishment license is suspended;
 - (2) The reasons for the establishment license suspension; and
 - (3) The establishment license suspension will become final 30 days after the mailing of the notice of suspension unless the Owner(s) submits a written request for a hearing within such 30 day period.
- c. Upon receipt of a written request for a hearing, the Owner(s) will be given a hearing before the Department. The Owner(s) must make a written request to the Department for a hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure for the Department.
- d. The Department's decision regarding the suspension of the license will become final 30 days after a copy of the decision is mailed to the Owner(s), unless the Owner(s) appeals the decision.

82-005.02C When an establishment license is suspended for failure of a routine inspection, the establishment must reapply to the Department for a license to operate as specified in 172 NAC 82-003.

82-005.02D Failure to permit an inspection for the purposes set out in 172 NAC 82-005.04 and 82-005.02 is grounds for denial of an initial massage therapy establishment license or for suspension of a massage therapy establishment's existing license.

82-006 DUTIES AND RESPONSIBILITIES OF OWNER: Each massage therapy establishment owner must insure that:

1. All massage therapists employed by the massage therapy establishment have a valid Nebraska license to practice massage therapy;
2. Licenses are posted in such a manner that clients can readily see the documents; and
3. The massage therapy establishment is operated in accordance with the Massage Therapy Practice Act and 172 NAC 81 and 82. This includes any massage therapy rooms that may be shared or used in conjunction with another health care professional.

82-007 CHANGE IN LICENSE FOR EXISTING ESTABLISHMENTS: Any establishment may apply for a change to its license, due to a change in Owner(s), change in name, or a change in location. Each establishment license issued is in effect solely for the Owner(s) and premises named thereon and will expire automatically upon any change of Owner(s) or change of location.

82-007.01 Change in Owner(s): The applicant must apply to the Department for and obtain another credential as specified in 172 NAC 82-003 at least 15 days prior to the change.

82-007.02 Change in Establishment Name: The applicant must submit:

1. A request for a change in the establishment name at least 15 days prior to the change; and
2. The required fee for a reissued license.

82-007.02A The Department will act within 150 days upon all completed applications and will reissue a license with the change of establishment name identified on the license.

82-007.03 Change in Location: The applicant must apply to the Department for and obtain another credential as specified in 172 NAC 82-003 at least 15 days prior to the change.

82-008 CLOSING AN ESTABLISHMENT: When any establishment is permanently closed, the holder of the establishment license must notify the Department in writing at least 15 days prior to closure.

82-009 RENEWAL OF A BUSINESS CREDENTIAL: To renew a business credential, the credentialed business must request renewal and complete the renewal requirements specified in 172 NAC 82-009.02. All massage therapy establishment credentials issued by the Department will expire on November 1st of each odd-numbered year.

82-009.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify the credentialed business at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date; and
4. The amount of the renewal fee;

82-009.02 Renewal Procedures: The request for renewal may be submitted in person, by mail, or by Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an

application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. The full name and address of the business;
 - b. The full name and address of the owner of the business;
 - c. The name of each person in control of the business;
 - d. The Social Security Number of the business if the applicant is a sole proprietorship;
 - e. Telephone number including area code (optional);
 - f. E-Mail Address (optional);
 - g. Fax Number (optional);
 - h. Attestation by the applicant that:
 - (1) S/he has read the application or have had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) If the applicant is a sole proprietorship, that s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;
 - i. Signature of:
 - (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (2) Two of its members if the applicant is a limited liability company that has more than one member;
 - (3) Two of its officers if the applicant is a corporation;
 - (4) The head of the governmental unit having jurisdiction over the business if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in items (1) through (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official; and
2. Fee: The renewal fee as specified in 172 NAC 2. The renewal fee must be paid no later than the date of the expiration of the credential.

82-009.03 Expiration of a Business License: A business credential will expire if a business fails to:

1. Meet the requirements for renewal on or before the date of expiration of the business credential; and/or
2. Renew the business credential.

82-009.03A Right to Operate: When a business credential expires, the right to operate the business terminates without further notice or hearing.

82-009.03B Re-Application for a Business License: When a business fails to renew its credential by the expiration date, a business must apply to the Department for and obtain another credential as specified in 172 NAC 82-003.

82-010 DISCIPLINARY ACTION: A credential to operate a business may have disciplinary actions taken against it in accordance with 172 NAC 82-010 on any of the following grounds:

1. Violation of the Uniform Credentialing Act or the rules and regulations adopted and promulgated under the act relating to the applicable business;
2. Committing or permitting, aiding, or abetting the commission of any unlawful act;
3. Conduct or practices detrimental to the health or safety of an individual served or employed by the business;
4. Failure to allow an agent or employee of the Department access to the business for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department; or
5. Discrimination or retaliation against an individual served or employed by the business who has submitted a complaint or information to the Department or is perceived to have submitted a complaint or information to the Department.

82-010.01 Temporary Suspension or Limitation

82-010.01A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 82-010 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

82-010.01B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

82-010.01C A temporary suspension or temporary limitation of a credential under 172 NAC 82-010.01 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reissued unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

82-010.02 Department Action: The Department will follow the procedures in the Uniform Credentialing Act to notify the credential holders of any disciplinary action to be imposed and the time and place of the hearing.

82-010.03 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

82-010.03A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 82-010.03, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

82-011 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or a form constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.

2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The applicant must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the applicant's signature and date.

82-011.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

82-011.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

82-011.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reissued; and
 - c. Any terms and conditions for re-application.

82-011.04 A limitation may be placed on the right of the credential holder to operate a business to the extent, for the time, and under the conditions as imposed by the Director.

82-011.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

82-011.06 Re-application following voluntary surrender is set out in 172 NAC 82-012.

82-011.07 The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

82-012 RE-APPLICATION: This section applies to businesses previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

1. A business whose credential has expired, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons may apply at any time to the Department for and obtain another credential as specified in 172 NAC 82-003.
2. A business whose credential has been voluntarily surrendered for a definite period may apply at any time to the Department for and obtain another credential as specified in 172 NAC 82-003.
3. A business whose credential has been revoked may apply only after a period of two years has elapsed from the date of revocation may apply to the Department for and obtain another credential as specified in 172 NAC 82-003.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for another credential.

82-013 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the re-application of a credential.

82-013.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Water well registrations or other government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

82-013.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

82-013.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

Effective Date
5/11/2010

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 82

82-014 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

These Amended Rules and Regulations replace Title 172, Chapter 82, Regulations Governing the Practice of Massage Therapy Establishments, effective January 3, 2005.

Approved by the Attorney General: February 18, 2010

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Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSEURE

Chapter 83 LICENSURE OF MASSAGE THERAPY SCHOOLS

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Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSEURE

Chapter 83 LICENSURE OF MASSAGE THERAPY SCHOOLS

83-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Massage Therapy Schools under Neb. Rev. Stat. §§38-1701 to 38-1715, and the Uniform Credentialing Act (UCA).

83-002 DEFINITIONS:

1. Approved School of Massage Therapy means a school which is approved by the Department of Health and Human Services, Division of Public Health, upon recommendation by the Board.
2. Act means Neb. Rev. Stat. §§38-1701 to 38-1715, known as the Massage Therapy Practice Act.
3. Attest or Attestation means that the individual declares that all statements on the application are true and complete.
4. Board means the Board of Massage Therapy.
5. Business means a person engaged in providing massage therapy services.
6. Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.
7. Confidential information means information protected as privileged under applicable law.
8. Client means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

9. Course of Study and Training in Massage Therapy means a course of not less 1,000 hours distributed over a term of not less than 9 months. All hours must be gained in a class setting. For purposes of this section, continuing education is not considered study or training in massage therapy. Such study and training must consist of:
- a. 700 hours of the course of study must consist of at least 100 hours in each of the following areas:
- (1) Anatomy: May include, but is not limited to, structure of the human body, study of cells, tissues, bones, muscles, organ systems, histology, embryology, kinesiology, biomechanics, etc.;
 - (2) Health Service Management: May include, but is not limited to, professional ethics, legalities of massage, business practices, promotion, employment opportunities, oral presentations, telephone techniques, marketing plan, sales techniques, resumes, bookkeeping, financial management, insurance coverage, networking, interview techniques, etc. These hours must be gained under the supervision of a licensed massage therapist
 - (3) Hydrotherapy: May include, but is not limited to, history, benefits of water treatment, cryotherapy, body wraps/masks, salt glows, body scrubs, body shampoos, moisturizers, hot packs, steam cabinets, dry brushing, therapeutic water modalities, methods of cold application, heat therapy, contrast baths, skin contra-irritants, spas, etc. These hours must be gained in a class setting under the supervision of a licensed massage therapist;
 - (4) Hygiene and Practical Demonstration:
 - (a) Hygiene may include, but is not limited to, physiology of digestion, weight control, herbal therapy, nutrition, food combining, supplementation, wellness, hygiene principles and practices, CPR, first aid, equipment and sanitation, infectious and contagious disease control, etc. These hours must be taught by a licensed massage therapist; and
 - (b) Practical Demonstration may include, but is not limited to, various massage therapy techniques and demonstration, hands-on training, student clinic hours, etc. These hours must be taught by a licensed massage therapist;
 - (5) Massage: May include, but is not limited to, history of massage, benefits of massage, physiology of massage, equipment and procedures, psychology of massage, interpersonal client contact, relaxation and visualization, proper draping techniques, general guidelines for massage, principles of body massage, etc. These hours must be taught by a licensed massage therapist;

- (6) Pathology: May include, but is not limited to, definition of pathology and disease, pharmacology, pathology of body systems, disease entities including cause and effect, blood pressure, pulse monitoring, injury and soft tissue dysfunction, etc. These hours must be taught by a licensed massage therapist or a person with appropriate training in the subject matter;
 - (7) Physiology: May include, but is not limited to, endocrinology, biochemistry, interaction of hormones to the body's balance and metabolism, function of human body, and organ systems, kinesiology, biomechanics, etc. These hours must be taught by a licensed massage therapist or a person with appropriate training in the subject matter; and
- b. The remaining 300 hours of the course of study must be obtained in subject areas related to the clinical practice of massage therapy which may include, but is not limited to, reflexology, deep tissue massage, Swedish massage, sports massage, pregnancy and infant massage, physiology and psychology of exercise, acupressure therapy, therapy and protocol, stress and practices, hands-on-training, review of health histories National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), National Certification Examination for Therapeutic Massage (NCETM), Advanced Clinical Examination (ACE), or Massage and Bodywork Licensing Examination (MBLEx) topics, etc. These hours must be gained under the on-site supervision of a licensed massage therapist or health care professional whose scope of practice includes massage techniques.
- 10. Credential means a license, certificate, or registration.
 - 11. Department means the Division of Public Health of the Department of Health and Human Services.
 - 12. Director means the Director of Public Health of the Division of Public Health or his/her designee.
 - 13. Hour means 50-60 minutes in duration.
 - 14. Implement means an electrical or mechanical tool, instrument, or a similar device. Examples are brushes, electrical massagers, hot stones, shells, hand tools, and any tool that comes in contact with the client.
 - 15. License means an authorization issued by the Department to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.
 - 16. Massage Therapist means a person licensed to practice massage therapy.

17. Massage Therapy means the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy. It does not include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry, is required nor the use of microwave diathermy, shortwave diathermy, ultrasound, transcutaneous electrical nerve stimulation, electrical stimulation of over thirty-five volts, neurological hyperstimulation, or spinal and joint adjustments.
- a. Well-being includes, but is not limited to:
- (1) Remediation, such as myofascial release, active/passive stretching, and similar modalities;
 - (2) Relaxation, such as Swedish Massage, hot stone, and similar modalities; and
 - (3) Holistic, such as Ortho-Bionomy®, polarity, shiatsu, reflexology, acupressure, and similar techniques.
- b. Mechanical or electrical manipulation includes, but is not limited to, the use of the following equipment:
- (1) Electrical stimulation equipment under 35 volts output;
 - (2) Oscillating (vibrating) equipment; and
 - (3) Hydrotherapy equipment.
18. NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 83.
19. Official means issued by and under the original seal of the educational institution.
20. Regularly Licensed Physician means a physician licensed to practice medicine and surgery or osteopathy by the licensing authority in the jurisdiction where the school is located.

83-003 INITIAL SCHOOL CREDENTIAL: Any person who wishes to operate a massage therapy school must obtain a license. If the school provides massage therapy services in addition to the student training program, a massage therapy establishment license must be obtained under 172 NAC 82.

83-003.01 Qualifications: To receive a credential to operate a massage therapy school, an individual must meet the following qualifications:

1. Physician: Have a regularly licensed physician (current license to practice medicine and surgery or osteopathy) affiliated with the staff;
2. Employees: Employ at least one licensed massage therapist as an instructor;

3. Student Enrollment: Require a diploma from an accredited high school or its equivalent as a condition of student enrollment;
4. Course of Study: Have a continuous course of study and training of not less than 1,000 hours, distributed over a term of not less than 9 months and consisting of the following subjects:
 - a. 100 Hours of Anatomy;
 - b. 100 Hours of Health Service Management;
 - c. 100 Hours of Hydrotherapy;
 - d. 100 hours of Hygiene (health wellness) and Practical Demonstration;
 - e. 100 Hours of Massage;
 - f. 100 Hours of Pathology;
 - g. 100 Hours of Physiology; and
 - h. The remaining 300 hours must be obtained in subject areas related to the clinical practice of massage therapy; and
5. Inspection: Have received a successful rating on the initial inspection as set out in 172 NAC 83-004 and 83-005.01.

83-003.02 Application: To apply for a credential to operate a massage therapy school, a business must submit to the Department a complete application. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contains the following information:

1. Written Application:
 - a. The full name and address of the business;
 - b. The full name and address of the owner of the business;
 - c. The name of each person in control of the business;
 - d. The Social Security Number of the business if the applicant is a sole proprietorship;
 - e. Telephone number including area code (optional);
 - f. E-Mail Address (optional);
 - g. Fax Number (optional);
 - h. Signature of:
 - (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (2) Two of its members if the applicant is a limited liability company that has more than one member;
 - (3) Two of its officers if the applicant is a corporation;
 - (4) The head of the governmental unit having jurisdiction over the business if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in items (1) through (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official;
 - i. Practice Before Application: The applicant must state:
 - (1) That s/he has not operated this establishment in Nebraska before submitting the application; or
 - (2) If s/he has operated this establishment in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and

- location of practice;
- j. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) If the applicant is a sole proprietorship, that s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;
2. Documentation: The applicant must submit the following documentation with the application:
- a. A curriculum plan which lists all of the subjects offered for completion of the massage therapy course of study;
 - b. The syllabus for each subject taught, documented on the application or an alternate form which contains the same information, to include:
 - (1) Title of course;
 - (2) Instructor's Name;
 - (3) Hours associated with each subject;
 - (4) Description of course;
 - (5) Course objectives;
 - (6) Text books and Resource or Supplement References; and
 - (7) Grading System;
 - c. Identification of the method for determining hours of contact attained by the student;
 - d. The name of each instructor and his/her license number (if applicable), and the name of the school manager;
 - e. A schedule of proposed hours of school operation; and
 - f. Floor Plan or Blueprint: A detailed floor plan or blueprint of the proposed school building must be submitted to the Department at least 30 days prior to the anticipated opening date of the school to allow for an initial inspection to be conducted:
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
- a. Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

83-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

83-003.04 Inspection: The Department will contact the applicant and schedule an inspection to be complete prior to the anticipated opening date. The results of the inspection will be recorded on a form provided by the Department. The Department will issue to each school passing the inspection and meeting the qualifications for licensure a license and the school may begin operation.

83-003.05 Denial of Initial Credential: If an applicant for an initial credential to operate a business does not meet all of the requirements for the credential or if the applicant is found to have done any of the grounds listed in 172 NAC 83-010, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within the 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

83-003.06 Withdrawn Applications: An applicant for a business who withdraws his/her application or whose application is rejected by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

83-003.07 Operating a Business without a Credential: The Department may assess an administrative penalty or take such other action as provided in the statutes and regulations governing the credential when evidence exists of operating a business prior to issuance of a credential. See 172 NAC 83-013.

83-003.08 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

83-003.09 Address Information: Each credential holder must notify the Department of any change to the address of record.

83-003.10 License Not Transferable: A license is issued only for the premises named in the application and is not transferable or assignable. A change of owner or location terminates the license.

83-004 INSPECTIONS: All schools will receive an initial and thereafter, a routine inspection. The criteria for inspection required by the Board and Department is set forth below:

1. Initial Inspection: An initial inspection will be conducted within 30 days of the receipt of the detailed floor plan/blueprint of the proposed school building and the school's address. The inspection will be announced and conducted by the Board and/or Department.
2. Routine Inspection: A routine inspection will be conducted within each renewal period to assure compliance with 172 NAC 83-004.01. The inspection will be conducted by the Board and/or Department.

83-004.01 Structure Equipment and Sanitation: The owner must ensure that the school has the equipment necessary to teach and provide massage therapy services. This equipment must be clean, well-maintained, and in good repair.

1. Physical Structure: A school must have a clearly identifiable location; each school can be free-standing or part of an existing structure. The owner must ensure that the establishment is well ventilated and kept in a clean, orderly, sanitary condition at all times.
 - a. All rooms must have adequate lighting and ventilation;
 - b. Each school must have an area that can be screened from public view for clients/students requesting privacy, except that an instructor may be present while the massage therapist is providing the client's massage;
 - c. All massage therapy schools providing saunas or steam baths must be equipped with shower facilities; and
 - d. Each room where massage therapy services are provided must have an EPA registered disinfectant that is proven effective against HIV-1, or Hepatitis B, or is a Tuberculocidal, and have liquid soap and water or an instant sanitizer.

If a massage therapy establishment is located within the school, the room(s) utilized by the licensee(s) must be licensed as an establishment, must comply with 172 NAC 82 and must be clearly identified by the name of the establishment.

If these same rooms are utilized by the school for student clinics, the room(s) must be clearly identified as 'student clinic' while utilized by the students.

2. Water: The owner must ensure that the school has a supply of hot and cold running water in sufficient quantities to conduct business in the school in a sanitary manner.
3. Safety: The owner must ensure that the school is maintained in a safe condition:
 - a. Floors, floor coverings, walls, woodwork, ceilings, furniture, fixtures and equipment are clean and safe;
 - b. Floors are free of unsafe objects and slippery or uneven surfaces;
 - c. Doors, stairways, passageways, aisles, or other means of exit provide safe and adequate access;
 - d. Electrical appliances or apparatus are clean and have no worn or bare wiring to avoid fires, shocks, and electrocution;
 - e. Water or product spills on the floor are removed immediately and floor dried to avoid falls; and
 - f. If candles are used in the school, the candle(s) must be on a surface where they are securely supported on a substantial noncombustible base and the candle flame is protected.
4. Restroom Facilities: A restroom must be available on the premise.

5. Massage Tables and Chairs: The owner must ensure that all tables and chairs are safe and in a sanitary condition at all times:
 - a. Tables/chairs with no sheeting/pad must be disinfected between clients with an EPA-registered disinfectant that is proven effective against HIV-1, or Hepatitis B, or is a Tuberculocidal;
 - b. Clean linens must be used for each client; and
 - c. Sheeting/pads that come in direct contact with the client or have been soiled must be removed, disinfected or cleaned between clients.

6. Storage: The owner must ensure that storage within the school meets the following requirements:
 - a. Flammable and combustible chemicals are stored away from potential sources of ignition such as an open flame or an electrical device;
 - b. Storage units:
 - (1) Cabinets, drawers, and containers used for storage of tools, equipment, instruments and towels/linens are clean; and
 - (2) Tools, equipment, instruments, or towels/linens which have been used on a client are not placed in a container with clean tools, equipment, instruments, or towels/linens.

7. Towels/Linens: The owner must ensure that all towels and linens are clean and sanitary for each client/student and meets the following requirements:
 - a. Used Towel and Linen Storage:
 - (1) Cloth towels and linens are deposited in a closed receptacle after use;
 - (2) Used cloth towels and linens are not used again until properly laundered; and
 - (3) Disposable towels are discarded in a covered waste receptacle immediately following each service.

 - b. Clean Towel and Linen Storage: All clean towels are stored in a clean, enclosed, dust-proof cabinet or container until used. Pillows are not required to be stored in a cabinet or container, but must have a clean covering before contact with a client/student.

8. Products: The owner must ensure that the use of products in the school meets the following requirements:
 - a. All liquids, creams, and other products are kept in clean, closed containers;
 - b. Original product bottles and containers have an original manufacturer label, which discloses their contents;
 - c. All products used on a client must be dispensed by a spatula, scoop, spoon, squeeze bottle, pump, dropper or similar dispenser so that the remaining product is not contaminated;
 - d. If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container is labeled to identify the product; and
 - e. Products applied to one client cannot be removed and reused on another client.

9. Methods of Disinfection: The owner must ensure that all electrical and/or mechanical tools, instruments, implements and equipment are disinfected before use on a client, by using one of the following two procedures:
- a. Procedure One:
 - (1) Spray, immerse, soak, or saturate the implement until it is totally saturated with an EPA-registered disinfectant that is proven effective against HIV-1, or Hepatitis B, or is a Tuberculocidal;
 - (2) Before removing the sanitized implement(s), wash hands with liquid soap and water or antibacterial solution;
 - (3) Rinse implement;
 - (4) Prior to storing, air-dry on a sanitary surface or dry with a clean sanitized towel; and
 - (5) Store in a clean enclosed cabinet or covered container reserved for clean implements until used.
 - b. Procedure Two:
 - (1) Autoclave implements in accordance with the manufacturer's instructions; and
 - (2) Autoclaves must be cleaned and serviced at the frequency recommended by the manufacturer.
- Foot baths/foot spas, showers, and hot tubs are disinfected with an EPA registered disinfectant that is proven effective against HIV-1, or Hepatitis B, or is a Tuberculocidal and in accordance with manufacturer's instructions.
- Paraffin wax machines must be kept clean. Paraffin wax removed for one client/student must not be re-melted and used by another client/student.
10. Activities Not Allowed: While in the school, the owner, massage therapist and/or student must not engage in or allow any other person, including clients, to engage in any of the following activities:
- a. Smoking in the entire school; and
 - c. A licensee/student must not use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises during the hours the school is open to the public.

83-004.02 Documents and Records. The owner must ensure that:

- 1. The license to operate a massage therapy school, is displayed in a conspicuous location at the massage therapy school;
- 2. There is a sign containing the name of the massage therapy school. The sign must be in a conspicuous location at the entrance to the school;
- 3. The license of each massage therapist who practices massage therapy in the massage therapy school, is displayed in a conspicuous location at the massage therapy school;

4. A copy of the license of the regularly licensed physician affiliated with the staff, maintained in the files of the massage therapy school; and
5. The school has one copy of the latest edition of the Massage Therapy Practice Act and one copy of the latest edition of 172 NAC 81, 82 and 83.

83-004.03 Operating Requirements: Each school of massage therapy must:

1. Not pay direct compensation to any of its students; tips are considered direct compensation;
2. Ensure that all students are under the supervision of an instructor at all times. Students in internships and practicums must have an onsite supervisor who is a licensed health care provider whose scope of practice includes massage techniques and who reports directly to the school instructor who is a licensed massage therapist;
3. Not credit a student with hours except when such hours were earned in the study or practice of massage therapy in accordance with the required curriculum, except massage schools may transfer college or university credit into the massage course of study;
4. Record student hours on a daily basis;
5. Give periodic evaluations that are graded according to a formula established by the school. A student's final average, when in training, must be no less than an average of 75%. A final practical examination, as described below, must be given before issuance of a diploma;
 - a. The examination must test over the following techniques and skills:
 - (1) Effleurage;
 - (2) Petrissage;
 - (3) Tapotement or Percussion;
 - (4) Friction;
 - (5) Vibration;
 - (6) Draping; and
 - (7) Hygiene and Sanitation;
 - b. Each student must be administered the examination by at least 2 instructors. Each instructor must score each part of the examination, and the average of the scores must be the final score for the student;
 - c. The board may observe any practical examination administered by the school for the purpose of adherence to the required techniques and skills specified in 172 NAC 83-004.03, item 5a; and
 - d. The school must comply with the provisions of the Americans with Disabilities Act (42 USC Section 12101, et.seq.) and Title VII of the Civil Rights Act, as amended (42 USC 2000e, et.seq.) in accommodating candidates who, because of a disability, need special arrangements to enable them to take an examination.

6. Post and adhere to all class schedules and the school curriculum;
7. Ensure that massage technique is only taught by licensed massage therapists or by a health care provider whose scope of practice includes massage techniques in accordance with 83-002, item 9.
8. Ensure that massage therapy students do not teach the massage curriculum;
9. Issue an official transcript to each student completing the program. The transcript must clearly identify each of the required coursework areas (as defined in 172 NAC 83-002, item 9), the hours earned in each coursework area, the name of the student, and the enrollment and graduation date; and
10. At the time of renewal, notify the Department of any changes in curriculum.

83-004.04 Infectious and Contagious Disease Control: A massage therapy school must operate in such a manner that prevents the spread of infectious or contagious disease.

83-004.05 Additional Duties and Responsibilities of the Owner(s): Each school owner(s) must ensure that the school is operated in accordance with the statutes and rules and regulations governing the profession of Massage Therapy. This includes any massage therapy rooms that may be shared or used in conjunction with another health care professional.

83-005 CRITERIA FOR SUCCESSFUL COMPLETION OF A MASSAGE THERAPY SCHOOL INSPECTION: Each applicant for a school license must successfully complete an inspection to receive a license to operate. The criteria for successful completion of inspections are set forth below:

83-005.01 Initial Inspection

83-005.01A The inspector will record a rating of "Satisfactory or Unsatisfactory" on the inspection report.

83-005.01B The inspector will record a rating of "Satisfactory" on the initial inspection when the school receives an overall inspection rating of 100% and an "Unsatisfactory" on the initial inspection when the school receives an overall inspection rating of less than 100% or if the inspector believes there is a severe health risk to the public.

1. The inspector will conduct a re-inspection within 30 days of receipt of verification that all corrections cited on the inspection report are corrected.
2. If the school receives a "Satisfactory" rating after re-inspection, the inspector will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.
3. If the school receives an "Unsatisfactory" rating after the re-inspection, the Department will deny the applicant the issuance of a massage therapy school license.

83-005.02 Routine Inspection

83-005.02A The inspector will issue a rating of "Satisfactory" on all routine inspections when the school receives an overall inspection rating of 100%.

83-005.02B The inspector will issue a rating of "Unsatisfactory" on all routine inspections when the school receives an overall inspection rating of less than 100%.

1. The school has 30 days from the date of the routine inspection to correct the deficiencies and to notify the Department that the corrections have been completed.
2. The inspector will conduct a re-inspection of the school within 15 days of receipt of verification that all corrections cited on the inspection report are corrected.
 - a. If the school meets the requirements at the time of re-inspection, the inspector will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.
 - b. If the school receives an "Unsatisfactory" rating, after the re-inspection, the Department will, within 10 days of the completion of the re-inspection, give notice to the school that the license is suspended. The notice will be in written form and will:
 - (1) State that the school license is suspended;
 - (2) State the reasons for the school license suspension;
 - (3) State that the school license suspension will become final 30 days after the mailing of the notice of suspension unless the Owner(s) submits a written request for a hearing within such 30 day period; and
 - (4) Be sent to the Owner(s) by certified mail.
 - c. Upon receipt of a written request for a hearing, the Owner(s) will be given a hearing before the Department. The Owner(s) must make a written request to the Department for a hearing and an appeal. The hearing must be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure for the Department.
 - d. The Department's decision regarding the suspension of the license will become final 30 days after a copy of the decision is mailed to the Owner(s), unless the Owner(s) appeals the decision.
3. When a school license is suspended for failure of a routine inspection, the school must reapply to the Department for a license to operate as specified in 172 NAC 83-006.03.

83-006 OWNER(S) AND MANAGER/PERSON IN CHARGE LIABILITY:

83-006.01 Owner(s) Liability: The owner(s) of each school of massage therapy have full responsibility for ensuring that the school is operated in compliance with all statutes, rules and regulations governing massage therapy and are liable for any and all violations occurring in the school.

83-006.02 Manager or Person in Charge Liability: Each school must be operated by a manager or person in charge who must be present on the premises of the school at all times while the school is in operation.

83-006.03 General Provisions:

1. Advertising: All advertising by schools must state that services are performed by students who are in training in massage therapy.
2. Statutes and Regulations Observed: All school personnel and students must comply with the Massage Therapy Practice Act and the rules and regulations.
3. Smoking: Smoking is prohibited in the entire school.
4. Unprofessional Conduct: All school personnel and students must abide by the acts of unprofessional conduct as specified in 172 NAC 81-010.

83-007 CHANGE IN LICENSE FOR EXISTING SCHOOLS: Any school may apply for a change to its license, due to a change in Owner(s), change in name, or a change in location. Each school license issued is in effect solely for the Owner(s) and premises named thereon and will expire automatically upon any change of Owner(s) or change of location.

83-007.01 Change in Owner(s) : The applicant must apply to the Department for and obtain another credential as specified in 172 NAC 83-003 at least 15 days prior to the change. The applicant must also identify:

1. Any changes to the curriculum plan, staff employed, handbook or school bulletin, or schedule of proposed hours of operation; and
2. Any change in the physical design. If a change in the physical design has occurred, passage of an inspection is required prior to issuance of a license.

83-007.02 Change in School Name: The applicant must submit:

1. A request for a change in the school name at least 15 days prior to the change; and
2. The required fee for a reissued license.

83-007.02A The Department will act within 150 days upon all completed applications and will reissue a license with the change of school name identified on the license.

83-007.03 Change in Location: The applicant must apply to the Department for and obtain another credential as specified in 172 NAC 83-003 at least 15 days prior to the change. The applicant must also identify any changes to the curriculum plan, manager and/or licensed massage therapist(s) employed, handbook or school bulletin, or schedule of proposed hours of operation.

83-007.03A The Department will contact the applicant and schedule an inspection within 30 days. The results of the inspection will be recorded on a form provided by the Department.

83-007.03B The Department will issue to each school passing the inspection a license to begin operation.

83-007.03C If the school fails the inspection, the Department will send to the applicant by certified mail to the name and address of record in the Department, a letter setting forth the reasons for failure of the inspection. The applicant has 15 days of receipt of the certified letter to submit evidence of corrective action of the deficiencies listed in the failure letter.

83-007.03D The Department will then schedule a second inspection within 30 days of receipt of the corrective action taken by the applicant.

83-007.03E Upon receiving a satisfactory rating, the Department will issue a license to the school and the school may begin operation.

83-008 CLOSING A SCHOOL: When any school is permanently closed, the holder of the school license must notify the Department in writing at least 15 days prior to closure, and surrender the school license within 15 days of closing.

83-009 RENEWAL OF A SCHOOL CREDENTIAL: To renew a school credential, the credentialed school must request renewal and complete the renewal requirements specified in 172 NAC 83-009.02. All massage therapy school credentials issued by the Department will expire on November 1st of each odd-numbered year.

83-009.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify the credentialed business at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date; and
4. The amount of the renewal fee;

83-009.02 Renewal Procedures: The request for renewal may be submitted in person, by mail, or by Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. The full name and address of the business;
 - b. The full name and address of the owner of the business;
 - c. The name of each person in control of the business;
 - d. The Social Security Number of the business if the applicant is a sole proprietorship;
 - e. Telephone number including area code (optional);
 - f. E-Mail Address (optional);
 - g. Fax Number (optional);
 - h. Attestation by the applicant that:
 - (1) S/he has read the application or have had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) If the applicant is a sole proprietorship that s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request;
 - i. Signature of:
 - (1) The owner or owners if the applicant is a sole proprietorship, a partnership, or a limited liability company that has only one member;
 - (2) Two of its members if the applicant is a limited liability company that has more than one member;
 - (3) Two of its officers if the applicant is a corporation;
 - (4) The head of the governmental unit having jurisdiction over the business if the applicant is a governmental unit; or
 - (5) If the applicant is not an entity described in items (1) through (4), the owner or owners or, if there is no owner, the chief executive officer or comparable official;
2. Fee: The renewal fee as specified in 172 NAC 2. The renewal fee must be paid no later than the date of the expiration of the credential.

83-009.03 Expiration of a Business License: A business credential will expire if a business fails to:

1. Meet the requirements for renewal on or before the date of expiration of the business credential; and/or
2. Renew the business credential.

83-009.03A Right to Operate: When a business credential expires, the right to operate the business terminates without further notice or hearing.

83-009.03B Re-Application for a Business License: When a business fails to renew its credential by the expiration date, a business must apply to the Department for and obtain another credential as specified in 172 NAC 83-003.

83-009.04 Address Information: The credentialed business must notify the Department of any change in name or address.

83-010 DISCIPLINARY ACTION: A credential to operate a business may have disciplinary actions taken against it in accordance with 172 NAC 83-010 on any of the following grounds:

1. Violation of the Uniform Credentialing Act or the rules and regulations adopted and promulgated under the act relating to the applicable business;
2. Committing or permitting, aiding, or abetting the commission of any unlawful act;
3. Conduct or practices detrimental to the health or safety of an individual served or employed by the business;
4. Failure to allow an agent or employee of the Department access to the business for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department; or
5. Discrimination or retaliation against an individual served or employed by the business that has submitted a complaint or information to the Department or is perceived to have submitted a complaint or information to the Department.

83-010.01 Temporary Suspension or Limitation

83-010.01A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 83-010 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

83-010.01B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

83-010.01C A temporary suspension or temporary limitation of a credential under 172 NAC 83-010.01 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reissued unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

83-010.02 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify the credential holder of any disciplinary action to be imposed and the time and place of the hearing.

83-010.03 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

83-010.03A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 83-010.03, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

83-011 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or a form constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.

3. Attestation: The applicant must:
 - a. Attest that all the information on this offer is true and complete; and
 - b. Provide the applicant's signature and date.

83-011.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

83-011.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

83-011.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reissued; and
 - c. Any terms and conditions for re-application.

83-011.04 A limitation may be placed on the right of the credential holder to operate a business to the extent, for the time, and under the conditions as imposed by the Director.

83-011.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

83-011.06 Re-application following voluntary surrender is set out in 172 NAC 83-010.

83-011.07 The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

83-012 RE-APPLICATION: This section applies to businesses previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

1. A business whose credential has expired or has been voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons may apply at any time to the Department for and obtain another credential as specified in 172 NAC 83-003.
2. A business whose credential has been voluntarily surrendered for a definite period may apply at any time to the Department for and obtain another credential as specified in 172 NAC 83-003.
3. A business whose credential has been revoked may apply only after a period of two years has elapsed from the date of revocation may apply to the Department for and obtain another credential as specified in 172 NAC 83-003.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for another credential.

83-013 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the re-application of a credential.

83-013.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. Water well registrations or other government records indicate that the person was engaged in practice;
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

83-013.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

83-013.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

83-014 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

These Rules and Regulations replace Title 172, Chapter 83, Regulations Governing the Practice of Massage Therapy, effective January 9, 2005.

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EFFECTIVE
DECEMBER 21, 2013

DEPARTMENT OF HEALTH
AND HUMAN SERVICES

172 NAC 88

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 88 LICENSURE OF MEDICINE AND SURGERY
AND OSTEOPATHIC MEDICINE AND SURGERY

88-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of medicine and surgery under Neb. Rev. Stat. §§ 38-2001 to 38-2062 and the Uniform Credentialing Act (UCA).

88-002 DEFINITIONS

Accredited hospital means a hospital accredited by the Department, with the recommendation of the Board.

Accredited School or College of Medicine means a United States or Canadian school or college which conforms to the standards required for accreditation by the Liaison Committee on Medical Education (LCME) sponsored by the Association of American Medical Colleges and the American Medical Association and is approved by the Department, upon recommendation of the Board.

Accredited School or College of Osteopathic Medicine means a school or college which conforms to the standards required for accreditation by the American Osteopathic Association Bureau of Professional Education and is approved by the Department, upon recommendation of the Board.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or

4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved Graduate Medical Education means a program of graduate medical education, approved by the Board, that is accredited by the Accreditation Council for Graduate Medical Education (ACGME), the Royal College of Physicians and Surgeons of Canada, the College of Family Physicians of Canada, or has been deemed by the Board as comparable to the requirements of ACGME.

Approved Graduate Osteopathic Medical Education means a program of graduate medical education approved by the Council on Postdoctoral Training (COPT) served in the United States, or has been deemed by the Board as comparable to the requirements of COPT.

Attest or Attestation means that the individual declares that all statements on the application are true and complete.

Board means the Board Medicine and Surgery.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Comprehensive Osteopathic Medical Variable Purpose Examination for the United States of America (COMVEX-USA) means the examination made available by the National Board of Osteopathic Medical Examiners.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Federation Credentials Verification Service (FCVS) means the permanent, central repository of core credential documents that have been verified through primary sources administered by the Federation of State Medical Boards.

Fellowship means a program of supervised educational training, approved by the Board, in a medical specialty or subspecialty at an accredited hospital, an accredited school or college of medicine, or an accredited school or college of osteopathic medicine, that follows the completion of undergraduate medical education.

FLEX Weighted Average means the formula used to determine the examination score for the FLEX examination administered prior to 1985. Such formula is as follows: Day 1 score multiplied by 1; Day 2 score multiplied by 2; Day 3 score multiplied by 3. The total of these three scores is divided by 6 which equals the FLEX Weighted Average.

Foreign Medical Graduate means a graduate of a school or college of medicine not in the United States or Canada (foreign medical school) which is recognized by the appropriate government agency in the country where the medical school is located.

Health Professional Shortage Area means a geographic area designated a health profession shortage area by the Nebraska Rural Health Advisory Commission.

Inactive credential means a credential which the credential holder has voluntarily placed on

inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensing examination means:

1. The Federation Licensing Examination (FLEX);
2. The National Board of Medical Examiners (NBME);
3. The United States Medical Licensing Examination (USMLE);
4. The National Board of Osteopathic Medical Examiners (NBOME);
5. The Comprehensive Osteopathic Medical Licensure Examination of the United States (COMLEX-USA);
6. The Licentiate of the Medical Council of Canada (LMCC); and,
7. Any of the following combinations of examinations:

Any three sequence examination combination of parts 1, 2 and 3 of the USMLE, NBME, NBOME, or COMLEX.

FLEX Component 1 can be combined with NBME Part III, USMLE Step 3, NBOME Part III or COMLEX Level 3.

FLEX Component 2 can be combined with NBME Parts I and II, USMLE Steps 1 and 2, NBOME Parts I and II or COMLEX Levels 1 and 2.

An applicant who fails to pass any part of the licensing examination within four attempts must complete one additional year of post graduate medical education at an accredited school or college of medicine or osteopathic medicine.

All parts of the licensing examination must be successfully completed within ten years. An applicant who fails to successfully complete the licensing examination within the time allowed must retake that part of the examination which was not completed within the time allowed.

If a FLEX examination is taken, a FLEX weighted average of 75 must be attained if examined prior to January 1, 1985. A grade of 75 is required in each component administered after January 1, 1985.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

Pattern of incompetent or negligent conduct means a continued course of incompetent or

negligent conduct in performing the duties of the profession.

Physician Locum Tenens means a permit that may be issued by the Department, with the recommendation of the Board, to an individual who holds an active license to practice medicine and surgery or osteopathic medicine and surgery in another state when circumstances indicate a need for the issuance of a physician locum tenens in the State of Nebraska. A physician locum tenens permit may be issued for a period not to exceed 90 days in any 12-month period.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Refresher course means a planned program of supervised educational training, approved by the Board, that provides a review of medical knowledge and skills for the purpose of the enhancement of clinical competency.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

Special Purpose Examination (SPEX) means the examination made available by the Federation of State Medical Boards of the United States, Inc.

State Examination means an examination administered by a state, territory of the United States, or District of Columbia for purposes of determining eligibility for initial licensure of physicians or osteopathic physicians and surgeons.

Temporary educational permit means a permit to practice medicine and surgery, osteopathic medicine and surgery, or any of their allied specialties in graduate medical education, a fellowship, or a refresher course.

Visiting faculty permit means a permit for a physician qualified by virtue of previous medical training and experience to teach students of medicine, to conduct research, or both.

88-003 INITIAL LICENSE TO PRACTICE MEDICINE AND SURGERY

88-003.01 Qualifications

88-003.01A To receive a license to practice medicine and surgery by examination on the basis of education received at an accredited school or college of medicine, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;

3. Education: Have graduated from an accredited school or college of medicine;
4. Graduate Medical Education: Have successfully completed one year of approved graduate medical education;
5. Examination: Have successfully passed a licensing examination; and
6. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have 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; or
 - b. Have had at least one year of approved graduate medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in medicine and surgery approved by the Board; or
 - e. Have completed the special purposes examination approved by the Board.

88-003.01B To receive a license to practice medicine and surgery by examination as a Foreign Medical Graduate, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Be a Foreign Medical Graduate;
4. Graduate Medical Education: Have successfully completed three years of approved graduate medical education;
5. Examination: Have successfully passed a licensing examination; and
6. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have 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; or
 - b. Have had at least one year of approved graduate medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in medicine and surgery approved by the Board; or
 - e. Have completed the special purpose examination

- approved by the Board.
7. Equivalency: Meet one of the following:
 - a. Have been issued a permanent certificate by the Educational Commission on Foreign Medical Graduates (ECFMG); or
 - b. Have successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Citizenship and Immigration Services; or
 - c. Have successfully completed a program of American medical training designated as the Fifth Pathway and passed the ECFMG Examination.

88-003.01C To receive a license to practice medicine and surgery on the basis of a license in another state or territory of the United States of America or the District of Columbia, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Have graduated from an accredited school or college of medicine or be a Foreign Medical Graduate;
4. Graduate Medical Education: Have successfully completed one year of approved graduate medical education if applicant is a graduate of an accredited school or college of medicine, or have successfully completed three years of approved graduate medical education if applicant is a Foreign Medical Graduate;
5. Examination: Have successfully passed a State Examination, approved by the Board, and have been duly licensed to practice medicine and surgery in that state or territory of the United States of America or in the District of Columbia based upon the State Examination;
6. Equivalency: If applicant is a Foreign Medical Graduate, meet one of the following:
 - a. Have been issued a permanent certificate by the Educational Commission on Foreign Medical Graduates (ECFMG); or
 - b. Have successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Citizenship and Immigration Services; or
 - c. Have successfully completed a program of American

- medical training designated as the Fifth Pathway and passed the ECFMG Examination; and
7. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have 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; or
 - b. Have had at least one year of approved graduate medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in medicine and surgery approved by the Board; or
 - e. Have completed the special purpose examination approved by the Board.

88-003.01D Geographically Limited License: The Department, with the recommendation of the Board, may waive any requirement for more than one year of approved graduate medical education if the applicant has served at least one year of approved graduate medical education and the following conditions are met:

1. The applicant meets all other qualifications for a license to practice medicine and surgery;
2. 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
3. The applicant submits proof that s/he 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.
4. 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, with the 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, with the recommendation of the Board, may grant or deny such application or may continue the license with limitations.

5. In addition to any other grounds for disciplinary action against the license contained in the Uniform Credentialing Act, 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.

88-003.02 Application: To apply for a license to practice medicine and surgery, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - b. Indicate the licensing examination or reciprocity examination which you successfully completed.
 - c. Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of medical college and date of graduation; if the medical college is not accredited indicate the ECFMG number.
 - d. Graduate Medical Education: name and location of institution for each graduate medical education program attended, name of the internship, residency or fellowship, and beginning and ending date of each program.
 - e. Experience: Indicate that, within the three years immediately preceding the application for licensure, you meet one of the following criteria:

- (1) Have 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; or
 - (2) Have had at least one year of approved graduate medical education; or
 - (3) Have completed at least 75 hours of category 1 continuing medical education as approved by the ACCME or AOA; or
 - (4) Have completed a refresher course in medicine and surgery approved by the Board; or
 - (5) Have completed the special purposes examination approved by the Board.
- f. List in chronological order all of applicant's medical activities for the last ten years, or since graduation from medical college if less than ten years ago.
- g. Indicate whether or not applicant holds a Federal Controlled Substances Registration. If yes, list the number and expiration date.
- h. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced medicine and surgery in Nebraska before submitting the application; or
 - (2) If s/he has practiced medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;
- i. The applicant must also provide information related to the following, as requested on the application of the Department:
- (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and

- receipt of warnings;
- (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
- (5) Any employment disciplinary actions or non-renewal of an employment contract;
- (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
- (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
- (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- j. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth,
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services, in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken

- against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;

- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
 - e. Official documentation showing successful completion of an accredited school or college of medicine sent directly to the Department from the school or college; or, official documentation showing that applicant is a Foreign Medical Graduate sent directly to the Department from the school or college;
 - f. Official documentation of meeting the graduate medical education qualifications sent directly to the Department from the graduate medical education program;
 - g. Official documentation of scores obtained on all Licensing or State Examinations that applicant has completed sent directly to the Department from the official repository for the scores;
 - h. Official documentation of meeting the equivalency qualifications sent directly to the Department from the equivalency organization;
 - i. If applying based on a license in another state, territory of the United States, or the District of Columbia, a certification of license from the state where applicant passed a State Examination and has been duly licensed to practice medicine and surgery.
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-003.02A Criminal Background Checks: An applicant must:

- 1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
- 2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked “Reason Fingerprinted”, print “Credential”;
- 3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and

4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 88-003.02A1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

88-003.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

88-003.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

88-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

88-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

88-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-003.08 Address Information: Each credential holder must notify the Department of

any change to the address of record.

88-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-004 INITIAL LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY

88-004.01 Qualifications

88-004.01A To obtain a license to practice osteopathic medicine and surgery by examination an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Have graduated from an accredited school or college of osteopathic medicine;
4. Graduate Medical Education: Have successfully completed one year approved graduate medical education or approved graduate osteopathic medical education;
5. Examination: Have successfully passed a licensing examination;
6. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have 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; or
 - b. Have had at least one year of approved graduate medical education or approved graduate osteopathic medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in medicine and surgery approved by the Board; or
 - e. Have completed the special purposes examination approved by the Board.

88-004.01B To receive a license to practice osteopathic medicine and surgery on the basis of a license in another state or territory of the United States or the District of Columbia, an applicant must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good

- character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
 3. Education: Have graduated from an accredited school or college of osteopathic medicine; and
 4. Graduate Medical Education: Have successfully completed one year of approved graduate medical education or approved graduate osteopathic medical education;
 5. Examination: Have successfully passed a State Examination, approved by the Board, and have been duly licensed to practice osteopathic medicine and surgery in that state or territory of the United States of America or in the District of Columbia based upon the State Examination;
 6. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have 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; or
 - b. Have had at least one year of approved osteopathic graduate medical education or approved graduate medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in osteopathic medicine and surgery or medicine and surgery approved by the Board; or
 - e. Have completed the special purpose examination approved by the Board.

88-004.02 Application: To apply for a license to practice osteopathic medicine and surgery the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address);

- and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
- b. Indicate all the licensing examination(s) or state examination(s) which applicant completed.
 - c. Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of osteopathic medical college and date of graduation.
 - d. Graduate Medical Education: name and location of institution for each osteopathic graduate medical education or graduate medical education program attended, name of the internship, residency or fellowship, and beginning and ending dates of each program.
 - e. Experience: Indicate that, within the three years immediately preceding the application for licensure, applicant meets one of the following criteria:
 - (1) Has been in the active practice of the profession of medicine and surgery or osteopathic medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - (2) Has had at least one year of approved graduate osteopathic medical education or graduate medical education; or
 - (3) Has completed continuing medical education approved by the Board; or
 - (4) Has completed a refresher course in osteopathic medicine and surgery or medicine and surgery approved by the Board; or
 - (5) Has completed the special purpose examination approved by the Board.
 - f. List in chronological order all of applicant's osteopathic medical activities for the last ten years, or since graduation from osteopathic medical college if less than ten years ago.
 - g. Indicate whether or not applicant holds a Federal Controlled Substances Registration. If yes, list the number and expiration date.
 - h. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application; or

- (2) If s/he has practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- i. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or

- federal controlled substances registration; and
- (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- j. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services, in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was

- obtained and/or required;
- (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Official documentation showing successful completion of an accredited school or college of osteopathic medicine sent directly to the Department from the school or college;
- f. Official documentation of meeting the osteopathic graduate medical education or graduate medical education qualifications sent directly to the Department from the graduate education program;
- g. Official documentation of scores obtained on each examination sent directly to the Department from the official repository for the scores;
- h. If applying based on a license in another state, territory of the United States, or the District of Columbia, a certification of license from the state where applicant passed a State Examination and

- has been duly licensed to practice medicine and surgery; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
 4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-004.02A Criminal Background Checks: An applicant must:

1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked "Reason Fingerprinted", print "Credential";
3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 88-004.02A1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

88-004.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

88-004.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

88-004.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

88-004.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a

credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

88-004.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-004.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-004.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-004.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-004.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-005 TEMPORARY EDUCATIONAL PERMITS: The Department may issue a temporary educational permit to an individual to practice medicine and surgery while serving in a program of graduate medical education, a fellowship, or a refresher course conducted by an accredited hospital or school or college of medicine or by another authorized provider in the State of Nebraska.

The holder of a temporary educational permit must not engage in the practice of medicine and surgery outside of the assigned graduate medical education program, fellowship or refresher course conducted by an accredited hospital or school or college of medicine or by another authorized provider in the State of Nebraska.

88-005.01 Qualifications: To receive a temporary educational permit, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;

2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Have graduated from an accredited school or college of medicine or, an accredited school or college of osteopathic medicine, or be a Foreign Medical Graduate;
4. Equivalency: If applicant is a Foreign Medical Graduate, meet one of the following:
 - a. Have been issued a permanent certificate by the Educational Commission on Foreign Medical Graduates (ECFMG); or
 - b. Have successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Citizenship and Immigration Services; or
 - c. Have successfully completed a program of American medical training designated as the Fifth Pathway and passed the ECFMG Examination; and
5. Have been accepted into an approved graduate medical education program, fellowship or refresher course conducted by an accredited hospital or school or college of medicine or by another authorized provider in the State of Nebraska.

88-005.02 Application: To apply for a temporary educational permit the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A*"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);

- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- b. Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of medical or osteopathic medical college and date of graduation; if the medical college is not accredited indicate the ECFMG number.
- c. Graduate Medical Education: name and location of institution for each graduate medical/osteopathic medicine education program attended, name of the internship, residency or fellowship, and beginning and ending dates of each program.
- d. List in chronological order all of applicant's medical/osteopathic medicine activities for the last ten years, or since graduation from medical college if less than ten years ago.
- e. Indicate whether or not applicant holds a Federal Controlled Substances Registration. If yes, list the number and expiration date.
- f. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced medicine and surgery or osteopathic medicine and surgery in Nebraska before submitting the application; or
 - (2) If s/he has practiced medicine and surgery or osteopathic medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- g. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request

- for voluntary resignation, probation, counseling, and receipt of warnings;
- (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- h. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the

- disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired

- Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Official documentation showing successful completion of an accredited school or college of medicine or osteopathic medicine; or, official documentation showing that applicant is a Foreign Medical Graduate;
 - f. Official documentation of meeting the equivalency qualifications sent directly to the Department from the equivalency organization, if applicant is a Foreign Medical Graduate; and
 - g. Official Documentation that an accredited hospital or school or college of medicine or another authorized provider in the State of Nebraska has requested the issuance of a temporary educational permit to the applicant for him/her to participate in its graduate medical education program, fellowship, or refresher course; and
- 3. Fee: The applicant must submit the required permit fee along with the application and all required documentation.
 - 4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-005.02A Criminal Background Check: An applicant for a temporary educational permit shall have 90 days from the issuance of the permit to comply with the requirements for the criminal background check and shall have his/her permit suspended after such 90-day period if the criminal background check is not complete or revoked if the criminal background check reveals that the applicant was not qualified for the permit. An applicant must:

- 1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
- 2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked "Reason Fingerprinted", print "Credential";
- 3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
- 4. Forward the completed fingerprint cards and payment for the

criminal background check as specified in 172 NAC 88-005.02A1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

88-005.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

88-005.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

88-005.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

88-005.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

88-005.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-005.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-005.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-005.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-005.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-006 VISITING FACULTY PERMITS: The Department, with the recommendation of the Board, may issue a Visiting Faculty Permit to an individual to serve as a member of the faculty of an accredited school or college of medicine in the State of Nebraska, to teach students of medicine, to conduct research, or both.

The holder of a Visiting Faculty Permit must not engage in the practice of medicine and surgery outside of his/her assignment(s) as a member of the faculty of an accredited school or college of medicine in the State of Nebraska to teach students of medicine, to conduct research, or both.

88-006.01 Qualifications: To receive a visiting faculty permit, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Have graduated from an accredited school or college of medicine, an accredited school or college of osteopathic medicine or be a Foreign Medical Graduate;
4. Have been accepted as a member of the faculty of an accredited school or college of medicine in Nebraska, to teach students of medicine, to conduct research, or both.

88-006.02 Application: To apply for a visiting faculty permit the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);

- (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- b. Indicate whether or not applicant holds a Federal Controlled Substances Registration. If yes, list the number and expiration date.
- c. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced medicine and surgery or osteopathic medicine and surgery in Nebraska before submitting the application; or
 - (2) If s/he has practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- d. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited

- to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
- (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration; and
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- e. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;

- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department.
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;

- (13) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record);
- e. Official documentation showing successful completion of an accredited school or college of medicine or osteopathic medicine sent directly to the Department from the school or college; or, official documentation showing that applicant is a Foreign Medical Graduate sent directly to the Department from the school or college;
- f. Official Documentation requesting the issuance of a visiting faculty permit to the applicant to be a member of the faculty at an accredited school or college of medicine in the State of Nebraska to teach students of medicine, conduct research or both. Such documentation shall include:
 - 1) Outline of faculty duties to be performed pursuant to the permit;
 - 2) Attestation by the Dean of the College of Medicine that applicant has been accepted as a member of the faculty at the medical school to perform duties as outlined on the application and that said duties are to teach students of medicine, to conduct research or both.
- 3. Fee: The applicant must submit the required permit fee along with the application and all required documentation.
- 4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-006.02A Criminal Background Checks: An applicant must:

- 1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
- 2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked “Reason Fingerprinted”, print “Credential”;
- 3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
- 4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 88-006.02A1

EFFECTIVE
DECEMBER 21, 2013

DEPARTMENT OF HEALTH
AND HUMAN SERVICES

172 NAC 88

to the Nebraska State Patrol, CID Division, P.O. Box 94907,
Lincoln, NE 68509.

88-006.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

88-006.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

88-006.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

88-006.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

88-006.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-006.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-006.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-006.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-006.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-007 PHYSICIAN LOCUM TENENS PERMIT: A physician locum tenens permit may be issued by the Department, with the recommendation of the Board, to an individual who holds an active license to practice medicine and surgery or osteopathic medicine and surgery in another state when circumstances indicate a need for the issuance of a physician locum tenens permit in the State of Nebraska.

A physician locum tenens permit may be issued for a period not to exceed 90 days in any 12-month period.

88-007.01 Circumstances for which a physician locum tenens permit may be issued:

1. The unavailability of a Nebraska physician due to vacation, sickness, hospitalization or other similar leaves of absence;
2. A public health emergency in the State of Nebraska such as one arising from incidents of widespread disease, natural or manmade disaster or similar causes;
3. There is a need for a physician as requested by an accredited hospital in a health professional shortage area.

88-007.02 To receive a physician locum tenens permit, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Hold an active license to practice medicine and surgery or osteopathic medicine and surgery in another state.

88-007.03 Application: To apply for a physician locum tenens permit the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;

- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address,; city; state; and zip code or other country information)
- (5) The applicant's:
 - (a) Social Security Number;
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- b. Indicate applicant's total years of medical practice;
- c. Education: name and location of medical college and date of graduation; if the medical college is not accredited indicate the ECFMG number.
- d. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application; or
 - (2) If s/he has practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- e. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during

- medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
- (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- f. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services, in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.

- (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident

- Card (Form I-551), both front and back of the card;
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Certification of license from a state in which applicant holds an active license. If there are any disciplinary actions, copies of those actions are to be included;
 - f. Official Documentation requesting the issuance of a physician locum tenens permit for the purpose of replacing a physician who will be unavailable for a specific period of time, or to provide physician services in a health professional shortage area for a specific period of time.
- 3. Fee: The applicant must submit the required permit fee along with the application and all required documentation.
 - 4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-007.04 Department Review: The Department will act within 150 days upon all completed applications for credentialing.

88-007.05 Denial of Credential: If an applicant for an credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department’s Rules of Practice and Procedure.

88-007.06 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-007.07 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-007.08 Confidentiality: Social Security Numbers obtained under this section are not

public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-007.09 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-007.10 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-008 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless such requirements are waived in accordance with 172 NAC 88-009.03 and 88-009.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

88-008.01 On or before the credential expiration date, individuals whose credentials expire on October 1 of each even-numbered year must earn one of the following:

1. 50 hours of Category 1 continuing education approved as follows:
 - a. Approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA);
 - b. One year of participation in an approved graduate medical education program is approved as 50 hours of Category 1 continuing education;
 - c. Hours are to be earned within the 24 months immediately preceding the date of expiration, except that a licensee who has earned more than the 50 hours required for license renewal for one 24-month renewal period is allowed to carry over up to 25 hours to the next 24-month renewal period.

Or

2. The AMA Physician's Recognition Award or the AOA CME Certification earned within the 24 months immediately preceding the date of expiration.

88-008.02 On or before the credential expiration date, individuals whose credentials expire on July 1 of each year must earn one of the following:

1. 25 hours of Category 1 continuing education approved as follows:
 - a. Approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA);
 - b. One year of participation in an approved graduate medical

education program is approved as 50 hours of Category 1 continuing education;

- c. Hours are to be earned within the 12 months immediately preceding the date of expiration.

Or

2. The AMA Physician's Recognition Award or the AOA CME Certification earned within the 12 months immediately preceding the date of expiration.

88-009 RENEWAL: An individual who wants to renew his/her license to practice medicine and surgery or osteopathic medicine and surgery must request renewal as specified in 172 NAC 88-009.02. All licenses to practice medicine and surgery and osteopathic medicine and surgery issued by the Department will expire on October 1 of each even-numbered year.

An individual who wants to renew his/her Temporary Educational Permit or Visiting Faculty Permit must request renewal as specified in 172 NAC 88-009.02. All Temporary Educational Permits and Visiting Faculty Permits issued by the Department will expire on July 1 each year.

88-009.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

88-009.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.

- Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
- b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number; and
 - c. Must attest that s/he has met the continuing competency requirements specified in 172 NAC 88-008 or has requested a waiver if s/he meets the requirements of 172 NAC 88-009.03 and/or 88-009.04.
2. Documentation: The applicant must submit the following documentation with the application.
- a. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential: If the applicant holds a credential to provide health services or health-related services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) Official Court Record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or

- required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and
3. The required renewal fee.

88-009.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 88-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

- 1. Military identification proving that s/he is in active service;
- 2. Military orders; or
- 3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

88-009.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

88-009.05 Audit Of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

88-009.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

88-009.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

88-009.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes, but is not limited to:

- 1. Certificates of attendance, transcripts, letters from a provider certifying

- attendance, or other documentation showing attendance at an approved course or educational program as outlined in section 88-008.01 or 88-008.02;
2. Certificates or other documentation showing that the credential holder has received the AMA Physician's Recognition Award within the applicable time period under 88-008.01 or 88-008.02; and
 3. Certificates or other documentation showing the credential holder has earned AOA CME Certification within the applicable time period under 88-008.01 or 88-008.02.

88-009.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

88-009.05E The Department will notify the credential holder upon satisfactory completion of the audit.

88-009.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

88-009.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

88-009.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

88-009.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal to renew will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

88-009.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-009.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

88-009.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

88-009.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

88-009.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

88-009.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice medicine and surgery/osteopathic medicine and surgery terminates.

88-009.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-009.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of medicine and surgery after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 88-012.

88-009.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

88-009.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

88-009.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of medicine and surgery/osteopathic medicine and surgery, but may represent him/herself as having an inactive credential.

88-009.09C Return to Active Status: A credential may remain on inactive status

for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 88-012.

88-010 DISCIPLINARY ACTIONS

88-010.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state.
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant to practice the profession;
6. Practice of the profession:
 - a. Fraudulently;
 - b. Beyond its authorized scope;
 - c. With manifest incapacity;
 - d. In a pattern of negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 88-010.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

14. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act.
18. Failure to file a report required by Neb. Rev. Stat. § 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 88-010.02; or
24. Violation of the Automated Medication Systems Act.

88-010.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of medicine and surgery or the ethics of the profession, regardless of whether a person, patient, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the licensing or state examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;

8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder. Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both;
10. Failure to keep and maintain adequate records of treatment or service. Adequate records means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment, and, when investigative or unproven therapies are utilized, the records must include written informed patient consent;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Prescribing any controlled substance to:
 - a. Oneself or
 - b. Except in the case of a medical emergency;
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
14. Disruptive physician behavior as manifested by a physician's aberrant behavior which interferes with patient care or could reasonably be expected to interfere with patient care, including, but not limited to, the following:
 - a. Outbursts of rage or violent behavior;
 - b. Repeated failure to respond to calls;
 - c. Throwing instruments, charts, or objects;
 - d. Insulting comments to a patient, patient's family, physicians, or healthcare staff;
 - e. Striking or assaulting a patient, patient's family, physicians, or healthcare staff; and
 - f. Poor hygiene;
15. A departure from or failure to conform to the ethics of the medical profession, which ethics are found in the American Medical Association's Code of Medical Ethics and Opinions;

16. Misrepresentation of material facts in applying for or procuring renewal of a license or permit;
17. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
18. The use of any false or deceptive statement in any advertisement;
19. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;
20. Providing treatment or consultation recommendations, including issuing a prescription, via electronic or other means, unless the physician has obtained a history and physical evaluation of the patient adequate to establish diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided and that arrangements exist to insure availability of the physician or physician coverage for follow-up patient care;
21. Practicing medicine under a false or assumed name;
22. Allowing another person or organization to use his/her license to practice medicine;
23. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to an addict or any person previously drug dependent, any drug legally classified as a controlled substance;
24. Violating any federal law or regulation relating to controlled substances;
25. Failure to transfer pertinent and necessary medical records to another physician in a timely fashion when requested to do so by the patient or by a designated representative of the patient;
26. Use of any therapy, drug or device in a manner inconsistent with the federal Food, Drug and Cosmetic Act;
27. Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
28. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin;
29. Prescribing, selling, administering, or distributing, any drug legally classified as a prescription drug other than for proper medical purposes;
30. Prescribing, dispensing or administering Schedule II controlled substances as defined in Neb. Rev. Stat. § 28-405(a) including amphetamines and similar Schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in excess of thirty days in any one year, or the non-therapeutic use of injectable amphetamines;
31. Signing a blank, undated or predated prescription form;
32. Conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public, not to include a single act of ordinary negligence;
33. Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes;
34. Lack of or inappropriate direction, collaboration or direct supervision of a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician;

35. Failure to comply with Neb. Rev. Stat. §§ 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates;
36. Failure to comply with Neb. Rev. Stat. § 38-2062 relating to disclosure of billing for anatomic pathology services.
37. Refusal to undergo an examination defining competency as required by the Board;
38. Performance by a physician of an abortion as defined in subdivision (1) of Neb. Rev. Stat. § 28-326 under circumstances when s/he will not be available for a period of at least 48 hours for postoperative care unless such postoperative care is delegated to and accepted by another physician;
39. Performing an abortion upon a minor without having satisfied the notice requirements of Neb. Rev. Stat. §§ 71-6901 to 71-6911;
40. The intentional and knowing performance of a partial-birth abortion as defined in subdivision (7) of Neb. Rev. Stat. § 28-326, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physician condition caused by or arising from the pregnancy itself;
41. Performance by a physician of an abortion in violation of the Pain-Capable Unborn Child Protection Act; and
42. Failure by any physician to conform to any requirement of Neb. Rev. Stat. § 28-3,105.

88-010.03 Temporary Suspension or Limitation

88-010.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 88-010.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

88-010.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

88-010.03C A temporary suspension or temporary limitation of a credential under 172 NAC 88-010.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential

holder.

88-010.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

88-010.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

88-010.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 88-010.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

88-011 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and

- d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

88-011.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

88-011.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

88-011.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and

- c. Any terms and conditions for reinstatement.

88-011.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

88-011.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

88-011.06 Reinstatement following voluntary surrender is set out in 172 NAC 88-012.

88-012 REINSTATEMENT: This section applies to individuals previously credentialed who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

88-012.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or

- (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (3) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
 - (1) Has met the continuing competency requirements specified in 172 NAC 88-008 within the 24 months immediately preceding submission of the application;
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 88-010 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts;
 - (4) Meets one of the following criteria within the three years immediately preceding the application for reinstatement:
 - (a) Has been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - (b) Has had at least one year of approved graduate medical education; or
 - (c) Has completed continuing medical education approved by the Board; or
 - (d) Has completed a refresher course in medicine and surgery approved by the Board; or
 - (e) Has completed the special purpose examination approved by the Board.

- e. The applicant must also provide information related to the following, as requested on the application of the Department:
- (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.

2. Fee(s): The following fee(s):
 - a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

88-012.01A If an applicant has practiced while her/his credential was inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

88-012.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

88-012.01C The Department will act within 150 days on all completed applications.

88-012.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

88-012.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 88-012.01.

88-012.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;

- (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number.
- d. Must attest that s/he:
- (1) Has met the continuing competency requirements specified in 172 NAC 88-008 within the 24 months immediately preceding submission of the application;
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 88-010 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts;
 - (4) Meets one of the following criteria within the three years immediately preceding the date of application:
 - (a) Has been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - (b) Has had at least one year of approved graduate

- medical education; or
 - (c) Has completed continuing medical education as approved by the Board; or
 - (d) Has completed a refresher course in medicine and surgery approved by the Board; or
 - (e) Has completed the special purpose examination approved by the Board.
- e. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled

- substances registration;
- (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
- (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.

2. Fee: The renewal fee.

88-012.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

88-012.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

88-012.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 88-012.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 88-013, in which case a separate notice of opportunity for hearing will be sent to the applicant.

88-012.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

88-012.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

88-012.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

88-012.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

88-012.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

88-012.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

88-013 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

88-013.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

88-013.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. That failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

88-013.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure For Administrative Hearings.

EFFECTIVE
DECEMBER 21, 2013

DEPARTMENT OF HEALTH
AND HUMAN SERVICES

172 NAC 88

88-014 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

These amended rules and regulations replace Title 172 NAC 88, Regulations Governing the Practice of Medicine and Surgery and Osteopathic Medicine and Surgery effective August 3, 2004.

2004

STATE OF NEBRASKA

Regulations Governing the Practice of:

ACUPUNCTURE

Department of Health and Human Services Regulation and Licensure

Credentialing Division

Nebraska State Office Building

P.O. Box 94986

Lincoln, Nebraska 68509-4986

EFFECTIVE DATE
DECEMBER 5, 2004

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 89

TITLE 172 - PROFESSIONAL AND OCCUPATIONAL LICENSES REGULATIONS

CHAPTER 89-REGULATIONS GOVERNING THE PRACTICE OF ACUPUNCTURE

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EFFECTIVE DATE
DECEMBER 5, 2004

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 89

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 89

PRACTICE OF ACUPUNCTURE

89-001 SCOPE AND AUTHORITY: These regulations shall apply to licensure of acupuncturists as defined by Neb. Rev. Stat. §§ 71-1,344 to 71-1,350 and the Uniform Licensing Law.

89-002 DEFINITIONS

Act means Neb. Rev. Stat. §§7 1-1,344 to 71-1,350 known as the Practice of Acupuncture.

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.

Approved Acupuncture Examination means the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) Acupuncture Comprehensive Written Examination which is a comprehensive written examination including acupuncture theory, diagnosis and treatment technique and the NCCAOM Point Location Examination.

Board Approved School means a formal, full-time acupuncture program at a university, college or school of acupuncture which includes at least 1,725 hours of entry-level acupuncture education consisting of a minimum of 1,000 didactic and 500 clinical hours, and is accredited or a candidate for accreditation by the Accreditation Commission for Acupuncture and Oriental Medicine or is accredited by another accrediting body that is recognized as such by the United States Secretary of Education.

Approved Clean Needle Technique Course means a course in clean needle technique approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) or an equivalent course.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Medicine and Surgery.

Completed Application means an application with all of the information requested on the application filled in, the signature of the applicant verified, fees and all required documentation submitted.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. §81-3201, for performance of the duties set out in that statute.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 89.

Verified means sworn to before a Notary Public.

89-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person, except those listed in Neb. Rev. Stat. §§ 71-1,344 to 71-1,350, who wishes to practice and or represent himself/herself as an acupuncturist must be licensed as an acupuncturist. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

89-003.01 Procedures for Licensure as an Acupuncturist: To obtain a license to practice acupuncture an applicant must:

1. Have graduated from, after having successfully completed the acupuncture curriculum requirements of an approved school;
2. Have successfully passed the NCCAOM Acupuncture Comprehensive Written Examination;
3. Have successfully passed the NCCAOM Point Location Examination;
4. Have successfully completed an approved clean-needle technique course;
5. Have good moral character;
6. Have attained at least the age of 19; and
7. Submit to the Department:
 - a. An application for a license to practice acupuncture on a form provided by the Department, a copy of which is attached hereto as Attachment A and incorporated in these regulations by this reference. Only applications which are complete will be considered.
 - b. Official documentation showing graduation and successful completion of the acupuncture curriculum requirements at an approved school;
 - c. Official documentation of passing score obtained on the NCCAOM Acupuncture Comprehensive Written Examination;
 - d. Official documentation of passing score obtained on the NCCAOM Point Location Examination;
 - e. Official documentation showing successful completion of an approved clean-needle technique course;

- f. Certification from each state where applicant has ever held a license or certification that such license/certification has never been suspended, revoked, limited, or disciplined in any manner. If there are any disciplinary actions, the nature of such actions is to be included;
- g. A copy of a birth certificate, marriage license, driver's license, or other valid verification of age;
- h. The required licensure fee.

89-003.02 When a license will expire within 180 days after its initial issuance date, the Department will collect one-fourth of the initial licensing fee, and the license will be valid until the next subsequent renewal date.

89-003.03 The Department will act within 150 days upon all completed applications for licensure.

89-004 LETTER OF REFERRAL: In order to practice acupuncture on a person, the acupuncturist must have 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 90 days immediately preceding the date of an initial acupuncture treatment.

89-004.01 A copy of this letter of referral or medical diagnosis and evaluation is to be retained in the patient's file for a period of at least five years after termination of the treatment.

05 89-005 INFORMED CONSENT: The practice of acupuncture must not be performed upon any person except with the voluntary and informed consent of such person.

89-005.01 Information provided in connection with obtaining such informed consent must 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.

89-005.02 The licensee must present to each patient treated a voluntary informed consent form. Each patient treated must sign and date such form stating that they have read and understood the information on the form and that they agree to acupuncture treatment. The voluntary informed consent form must be retained in the each patient's records for a period of at least five years after termination of the treatment.

89-006 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses issued by the Department under the Act and these regulations expire on May 1 of each odd-numbered year.

89-006.01 Renewal process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements pursuant to 172 NAC 89-013;
2. Pay the renewal fee pursuant to 172 NAC 89-011;
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?
These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the continuing competency requirement pursuant to 172 NAC 89-013 within 24 months of the date of expiration or an application for waiver of continuing competency; Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110.
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

89-006.02 First Notice: At least 30 days before May 1 of each odd-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

89-006.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 89-011;
6. The type of continuing competency required for renewal; and

7. The option to place the license on either inactive or lapsed status.

89-006.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing the continuing competency requirement as pursuant to 172 NAC 89-013 earned within 24 months of the date of expiration or an application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

89-006.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her licensed be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

89-006.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

89-006.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to the requirements of 172 NAC 89-006.01 that specify:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 89-012 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of meeting the continuing competency requirement within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked pursuant to 172 NAC 89-007.

89-006.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - a. That s/he has not practiced in Nebraska since the expiration of her/his license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of her/his license;
5. Attestation of completing the continuing competency requirements pursuant to 172 NAC 89-013 within 24 months of the date of expiration or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

89-006.03B If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

89-006.03C The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

89-006.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

89-006.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department must be conducted in accordance with Neb. Rev. Stat. §§

84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

89-006.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 89-006.04 and 89-006.05 will not apply.

89-006.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

89-006.08 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 89-012, or such other action as provided in the statutes and regulations governing the credential.

89-007 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS.
The Department will revoke a license within 30 days of its expiration when the licensee fails to meet the renewal requirements.

89-007.01 Revocation for Non-Payment of Renewal Fee: When a licensee fails to pay the required renewal fee or fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the license without further notice or a hearing.

89-007.01A The revocation notice specifies that the:

1. Licensee was given first and second notice of renewal requirements and the respective dates for these notices;
2. Licensee failed to renew the license or to request that his/her license be placed on inactive or lapsed status;
3. Department has revoked the license;
4. Licensee has a right to appeal the revocation; and
5. Licensee has a right to reinstatement of the license.

89-007.02 Revocation for Failure to Meet Continuing Competency Requirements: When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for license renewal, the Department will revoke his/her license after notice and opportunity for a hearing.

89-007.02A The revocation notice for failure to meet continuing competency requirements specifies that the:

1. Licensee was given first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. Licensee either failed to renew the license or to have his/her license placed on inactive or lapsed status;
3. Department will revoke the license within 30 days of the date of the notice unless the licensee requests in writing a hearing;
4. Licensee has a right to appeal the revocation; and

5. Licensee has a right to reinstatement of the license.

89-008 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE.

89-008.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 89-003.

89-008.02 The Department will refuse renewal or reinstatement of a license if the licensee fails to meet the requirements for renewal or reinstatement of a license.

89-008.03 The Department may deny, refuse renewal or reinstatement of, limit, suspend, place on probation, discipline or revoke licenses for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license;
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. §71-172.01;
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession;
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so;
9. Having had his/her license or permit denied, refused renewal, limited, suspended, or revoked or having had such license or permit disciplined in any other manner in accordance with Neb. Rev. Stat. §71-155 by another state or jurisdiction to practice acupuncture based upon acts by the applicant or licensee similar to acts described 172 NAC 89-008 and 89-010. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, registration or permit or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence;

10. Unprofessional conduct, which term includes all acts specified in Neb. Rev. Stat. §71-148 and such other acts specified as unprofessional conduct by these regulations;
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's professional excellence or abilities, in advertisements;
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;
14. Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the Department relating to the licensee's profession, sanitation, quarantine, or school inspection;
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law for which the licensee is not licensed to practice.
16. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
17. Failure to file a report required by Neb. Rev. Stat. §71-168;
18. Practicing the profession of acupuncture while his/her license is suspended or in contravention of any limitation placed upon his/her license.
19. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or licensee unqualified to practice his/her profession or occupation.
20. Refusal to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§71-161.12 to 71-161.16 to determine his/her qualifications to practice or continue in the practice of the profession or occupation for which application was made or for which s/he is licensed.

89-009 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

89-009.01 Eligibility

89-009.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

89-009.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

89-009.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 89-012, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

89-009.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 89-003.

89-009.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 89-012;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

89-009.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

89-009.02C The Department will act within 150 days on all completed applications.

89-009.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 89-009.02A and 89-009.02B are final.

89-009.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee and any other applicable fees;

- c. Meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of acupuncture; or
 - (2) Pass the approved acupuncture examination; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

89-009.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Date of birth and place of birth;
 - f. Name of professional school and date of graduation;
 - g. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your license on probation?
 - (4) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?

- (8) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been notified of any malpractice claim against you?
- h. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:
- (1) Have been in the active practice of the profession of acupuncture; or
 - (2) Pass the approved acupuncture examination; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
- i. List your activities for the time period since your credential was active.
- j. A statement describing all:
- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant.
 - k. Attestation that the continuing competency requirements for renewal have been met;
2. The renewal fee and any other applicable fees.
3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
4. Official documentation of meeting one of the provisions of 172 NAC 89-009.03 item 1c.

89-009.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 012;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

89-009.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

89-009.04C In either event pursuant to 172 NAC 89-009.04A or 89-009.04B, a notice and the opportunity for hearing will be given to the applicant.

89-009.04D The Department will act within 150 days on all completed applications.

89-009.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
 - c. Meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of acupuncture; or
 - (2) Pass the approved acupuncture examination; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential, or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

89-009.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Date of birth and place of birth;
 - f. Name of professional school and date of graduation;
 - g. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your license on probation?
 - (4) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?

- (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been notified of any malpractice claim against you?
- h. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:
- (1) Have been in the active practice of the profession of acupuncture; or
 - (2) Pass the approved acupuncture examination; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
- i. List your activities for the time period since your credential was active.
- j. A statement describing all:
- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and

- current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- k. Attestation that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees.
 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 89-012 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 89-009.06B.
 4. Official documentation of meeting one of the provisions of 172 NAC 009.05 item 1.c.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

89-009.06A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions or restrictions; or
3. Deny reinstatement.

89-009.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstate the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 89-012 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:

- a. Reinstate the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to to 172 NAC 89-012 if warranted; or
- b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

89-009.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement as prescribed in Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees;
 - c. Meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of acupuncture ; or
 - (2) Pass the approved acupuncture examination; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

89-009.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) Date of birth and place of birth;
 - (6) Name of professional school and date of graduation;
 - (7) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your license was active.
 - (a) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your license on probation?
 - (d) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing agency?
 - (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?

- (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder; schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been notified of any malpractice claim against you?
- d. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:
- (1) Have been in the active practice of the profession of acupuncture; or
 - (2) Pass the approved acupuncture examination; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
- e. List your activities for the time period since your credential was active.
- f. A statement describing all:
- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the petitioner explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.

- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - (a) If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the petitioner.
- g. Attestation that the continuing competency requirements for renewal have been met.
2. The renewal fee, the late fee of \$75 and any other applicable fees.
3. Attestation by the petitioner:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 89-012 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 89-009.08F.
4. Official documentation of meeting one of the provisions of 172 NAC 89-009.07 item 2.c.

89-009.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

89-009.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

89-009.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

89-009.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

89-009.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

89-009.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30

days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

89-009.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

89-009.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

89-009.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

89-009.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

89-009.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

89-009.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

89-009.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;
3. Meet one of the following within the three years immediately preceding the application for reinstatement:
 - a. Have been in the active practice of the profession of acupuncture ; or
 - b. Pass the approved acupuncture examination; or
 - c. Demonstrate other proof of professional competency as approved by the Board.
4. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

89-009.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) Date of birth and place of birth;

- (6) Name of professional school and date of graduation;
- (7) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (a) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your license on probation?
 - (d) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing agency?
 - (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder; schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been notified of any malpractice claim against you?

d. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:

- (1) Have been in the active practice of the profession of acupuncture; or

- (2) Pass the approved acupuncture examination; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
 - e. List your activities for the time period since your credential was active.
 - f. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - (a) If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the petitioner explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - (a) If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the petitioner;
 - g. Any continuing competency activities.
- 2. The reinstatement fee of \$75.
- 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 89-012 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other

action may be taken as provided in 172 NAC 89-009.10G below.

4. Official documentation of meeting one of the provisions of 172 NAC 89-009.09 item 3.

89-009.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

89-009.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

89-009.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

89-009.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

89-009.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

89-009.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

89-009.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

89-009.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by

certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

89-009.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

89-009.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial

evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

89-009.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or

modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

89-009.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

89-009.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time.

89-009.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

89-009.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Date of birth and place of birth;
 - f. Name of professional school and date of graduation;
 - g. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.

- (1) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your license on probation?
 - (4) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (13) Have you been diagnosed with or treated for bipolar disorder; schizophrenia, or any psychotic disorder?
 - (14) Have you been convicted of a felony?
 - (15) Have you been convicted of a misdemeanor?
 - (16) Have you been notified of any malpractice claim against you?
- h. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:
- (1) Have been in the active practice of the profession of acupuncture; or

- (2) Pass the approved acupuncture examination; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
- i. List your activities for the time period since your credential was active.
- j. A statement describing all:
- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- k. Any continuing competency activities.
- l. Attest:
- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.
- m. Official documentation of meeting one of the following within the three years immediately preceding the petition for reinstatement:
- (1) Have been in the active practice of the profession of acupuncture; or

- (2) Pass the approved acupuncture examination; or
- (3) Demonstrate other proof of professional competency as approved by the Board.

89-009.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 89-012;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

89-009.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

89-009.11A4 In either event pursuant to 172 NAC 89-009.11A2 or 89-009.11A3, a notice and the opportunity for hearing will be given to the applicant.

89-009.11A5 The Department will act within 150 days on all completed applications.

89-009.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time.

89-009.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

89-009.12B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 89-012.

89-009.13 Credentials Voluntarily Surrendered or Limited Permanently.

89-009.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

89-010 UNPROFESSIONAL CONDUCT. In addition to the unlawful or unprofessional acts listed in Neb. Rev. Stat. §§ 71-147 through 71-148, the following conduct will be considered unprofessional acts as defined by the Board [71-147(10)]:

1. Misrepresentation of material facts in applying for or procuring renewal of a license or permit;

2. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
3. The use of any false or deceptive statement in any advertisement;
4. The refusal to cooperate or the failure to furnish requested information during a licensing or discipline investigation by the Department;
5. Disruptive behavior as manifested by an acupuncturist's aberrant behavior which interferes with patient care or could reasonably be expected to interfere with patient care, including, but not limited to, the following:
 - a. Outbursts of rage or violent behavior;
 - b. Repeated failure to respond to calls;
 - c. Throwing instruments, charts, or objects;
 - d. Insulting comments to a patient, patient's family, acupuncturist, or healthcare staff;
 - e. Striking or assaulting a patient, patient's family, acupuncturist, or healthcare staff;
 - f. Poor hygiene.
6. Willfully or negligently violating the confidentiality between acupuncturist and patient except as required by law;
7. Practicing acupuncture under a false or assumed name;
8. Allowing another person or organization to use his or her license to practice acupuncture;
9. Failure to transfer pertinent and necessary medical records to another health care provider in a timely fashion when requested to do so by the patient or by a designated representative of the patient;
10. Use of any therapy, drug or device in a manner inconsistent with the federal Food, Drug and Cosmetic Act;
11. Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
12. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin;
13. Prescribing, selling, administering, or distributing, any drug legally classified as a prescription drug;
14. Any conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public;

15. Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement which has the same effect;
16. Commission of any act of sexual misconduct, or exploitation related to the person's practice of acupuncture. Sexual misconduct in the practice of acupuncture means violation of acupuncturist-patient relationship through which the acupuncturist uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both;
17. Failure to keep and maintain adequate records of treatment or service; adequate records means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment; and, when investigative or unproven therapies are utilized, the records must include written informed patient consent;
18. Failure to obtain 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;
19. Failure to maintain in the patient's records for at least five years after termination of the treatment, a copy of the 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 as stated in these regulations;
20. Failure to obtain a voluntary informed consent form as listed in Section 89-005 of these regulations;
21. Failure to 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, or osteopathic medicine and surgery.

89-011 SCHEDULE OF FEES. The following fees have been set by the Department:

89-011.01 Initial License Fee: By an applicant for a license to practice acupuncture, the fee of \$200 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

89-011.01A Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$50 and the Licensee Assistance Program fee of \$1.

89-011.02 License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice acupuncture, the fee of \$75 and the Licensee Assistance Program fee of \$2.

89-011.03 Inactive license Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.

89-011.04 Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

89-011.05 Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:

1. The basis on which a license was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the license; and
4. The current status of the license.

89-011.06 Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.

89-011.07 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

89-011.08 Administrative Fee: For a denied license, or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the licensing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

89-011.09 Reinstatement Late Fee: For reinstatement of a license: for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

89-011.10 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.

89-012 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

89-012.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;

2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Other government records indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

89-012.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

89-012.04 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

89-013 CONTINUING COMPETENCY

89-013.01 Continuing Competency Requirement: On or before May 1, 2005, and on or before May 1 of each odd-numbered year thereafter, each acupuncturist who is licensed in the State of Nebraska must, as a condition for renewal of his/her license, earn one of the following in order to meet the continuing competency requirement:

1. 50 hours of continuing education approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM);
 - a. Hours are to be earned within the 24 months immediately preceding the date of expiration, except that a licensee who has earned more than the 50 hours required for license renewal for one 24 month renewal period, is allowed to carry over up to 25 hours to the next 24 month renewal period.or
2. 50 hours of Category 1 continuing education approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA);
 - a. Hours are to be earned within the 24 months immediately preceding the date of expiration, except that a licensee who has earned more than the 50 hours required for license renewal for one 24 month renewal period, is allowed to carry over up to 25 hours to the next 24 month renewal period.or
3. Active certification or active recertification of diplomate status with the NCCAOM earned within the 24 months immediately preceding the date of expiration.

89-013.01A Each licensee must submit to the Department an attestation that s/he has met the continuing competency requirement for the 24 months immediately preceding the expiration date; and

89-013.01B Each licensee is responsible for maintaining their records verifying attendance at continuing education programs or otherwise meeting the continuing competency requirement.

89-013.02 Waiver of Continuing Competency: The Department, on the recommendation of the Board, may waive the continuing competency requirement, in whole or in part, when a licensee submits documentation that circumstances beyond his/her control prevented the completion of such requirements. Such circumstances will include situations in which the licensee:

1. Holds a Nebraska license but is not practicing his/her profession in Nebraska;
2. Has served in the regular armed forces of the United States during part of the renewal period immediately preceding the license renewal date;
3. Has suffered from a serious or disabling illness or physical disability during the renewal period immediately preceding the license renewal date which prevented completion of the continuing competency requirements;
4. Was first licensed within the renewal period immediately preceding the license renewal date.

89-013.02A The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency

requirements, upon proof that circumstances beyond the licensee's control prevented completion of such requirements.

89-013.02A1 When the Department determines to deny an application for waiver of continuing competency requirements, it sends to the licensee by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

1. The licensee has 30 days from the date of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with the Administrative Procedures Act and 184 NAC 1, Rules of Practice and Procedure of the Department.
2. The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

89-013.02A2 When the Department determines to grant a waiver of continuing competency, the licensee will be notified within 30 days of receipt of the application.

89-013.03 Audit of Continuing Competency: The Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each licensee selected for audit will be required to produce documentation of the continuing competency activities s/he has completed in order to meet the requirements for the 24 months immediately preceding the expiration date.

89-013.03A The Department will send to each licensee selected a notice of audit.

89-013.03B When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in approved continuing competency activities to meet the requirements for the 24 months immediately preceding the expiration date.

89-013.03C Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

Approved by the Attorney General on October 21, 2004
Approved by the Governor on November 30, 2004
Filed with the Secretary of State on November 30, 2004
Effective Date: December 5, 2004

Licensure Fee \$200.00
PLUS the LAP Fee:
\$2.00 – First Year
\$1.00 – Second Year
**Make check or money order
payable to:
Health and Human Services**

Nebraska Department of Health and Human Services
Regulation and Licensure
Credentialing Division
P O Box 94986
301 Centennial Mall South
Lincoln, NE 68509-4986
(402) 471-2118

Attachment A

APPLICATION FOR LICENSE TO PRACTICE ACUPUNCTURE

IDENTIFYING INFORMATION

Legal Name: _____
(Last) (First) (Middle) (Maiden)

Date of Birth: _____ Place of Birth: _____
MO/DAY/YR (City, State Or Country if other than US)

Social Security Number: _____ - _____ - _____

Telephone (Optional): (_____) _____ FAX (Optional): (_____) _____

E-Mail Address (Optional): _____

Address: _____
(Street/ P O Box/Route)

(City) (State) (Zip Code)

Have you ever sought or been granted a health professions license under another name? () YES () NO
If yes, indicate other name(s) used: _____

Have you ever been licensed in any health profession in the State of Nebraska? () YES () NO
If yes, please explain: _____

ACUPUNCTURE EDUCATION I have spent _____ years in the study of acupuncture in the institution(s) listed below.

(Name of Institution) (City/State/Country)

Attended From: _____ to _____ Degree Conferred: _____
(M/D/Y) (M/D/Y)

(Name of Institution) (City/State/Country)

Attended From: _____ to _____ Degree Conferred: _____
(M/D/Y) (M/D/Y)

You must request that official documentation be sent directly to the Department from the institution, showing graduation 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 1,725 hours of entry-level acupuncture education consisting of a minimum of 1,000 didactic and 500 clinical hours. Please use the attached Certificate of Acupuncture Education to document your education. Documents not written in English must be accompanied by an official English translation.

I have completed the Clean Needle Technique Course approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) and have requested documentation of such to be sent to your office from the NCCAOM.

() YES () NO

EXAMINATION

I have successfully passed the Acupuncture Comprehensive Written Examination and the Point Location Examination administered by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) and have requested documentation of such to be sent to your office from the NCCAOM.

() YES () NO

LICENSURE IN OTHER STATES

Have you ever been granted an acupuncture license/certificate/registration by any State or Territory?

() YES () NO

If yes, list all current and non-current licenses below:

State or Territory	License Number	Effective Date	Expiration Date

You must request a Verification of Licensure or Letter of Good Standing from each State Board from each location where you hold or have held a license/certificate or registration to practice acupuncture, including any temporary permits. This document must be sent directly to our office.

REGULATORY INFORMATION

Answer the following questions yes or no. If you answer YES to any of the following questions, explain the circumstances and outcomes. Use an additional sheet if necessary.

1. Has any state or territory of the United States ever taken any of the following actions against your license/certificate/registration?

- YES NO Denied (Circle One)
- YES NO Revoked (Circle One)
- YES NO Suspended (Circle One)
- YES NO Limited (Circle One)

If yes, please explain: _____

2. Has any licensing or disciplinary authority ever taken any of the following actions against your license/certificate/registration?

- YES NO Restricted (Circle One)
- YES NO Revoked (Circle One)
- YES NO Suspended (Circle One)
- YES NO Limited (Circle One)

If yes, please explain: _____

3. Has any licensing or disciplinary authority placed your license/certificate/registration on probation?
YES NO (Circle One)

If yes, please explain: _____

4. Have you ever voluntarily surrendered a license/certificate/registration issued to you by a licensing or disciplinary authority?
YES NO (Circle One)

If yes, please explain: _____

5. Have you ever voluntarily limited in any way a license/certificate/registration issued to you by a licensing or disciplinary authority?
YES NO (Circle One)

If yes, please explain: _____

6. Have you ever been requested to appear before any licensing agency?
YES NO (Circle One)

If yes, please explain: _____

7. Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
YES NO (Circle One)

If yes, please explain: _____

8. Are you aware of any pending disciplinary actions against your license/certificate/registration in any jurisdiction?
YES NO (Circle One)

If yes, please explain: _____

9. Are you aware of any on-going investigations of a disciplinary complaint against your license/certificate/registration in any jurisdiction?
YES NO (Circle One)

If yes, please explain: _____

10. Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
YES NO (Circle One)

If yes, please explain: _____

11. During the past ten years, have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
YES NO (Circle One)

If yes, please explain: _____

12. During the last ten years have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
YES NO (Circle One)

If yes, please explain: _____

13. Have you ever been convicted of a felony*?
YES NO (Circle One)

If yes, please explain: _____

14. Have you ever been convicted of a misdemeanor*?
YES NO (Circle One)

If yes, please explain: _____

15. Have you ever been notified of any malpractice claim against you **?
YES NO (Circle One)

If yes, please explain: _____

* Required Misdemeanor/Felony Conviction Information

If you have had any misdemeanor or felony convictions you must submit:

- A. A detailed description of each conviction including the circumstances surrounding each conviction;
- B. An official record or other documentation verifying the type and nature of each conviction. This should include the charges, conviction and further outcome of the case. If there was probation, include documentation regarding whether or not the probation was successfully completed. This documentation can usually be obtained by contacting the court in which your conviction was decided.

** Required Malpractice Information

Regarding your malpractice, claim(s), please include the following information. Sign and date your explanation.

- A. State the total number of claims ever filed against you; and
- B. Submit a detailed explanation (see below) of each claim ever filed against you. Do not send copies of forms completed for insurance companies or other entities.
- C. For any malpractice claims that are currently pending, submit copies of the court documents that outline the statement of charges (often called the "Complaint") and a letter from the attorney stating the current status of the claim.

Include the following information regarding each claim:

- 1. Name, sex and age of patient;
- 2. Date of occurrence;
- 3. Initial event (procedure/diagnosis);
- 4. Subsequent event that precipitated the claim – include the time sequence in relation to the initial event;

5. Damages – a description of damages or alleged damages resulting from the initial and subsequent events;
6. Date of filing of malpractice claim in court (if applicable);
7. Outcome of claim – include the court disposition, whether or not the case was settled, and the amount of any monetary settlement or judgement made on your behalf. If no money was paid on your behalf, you must indicate this.
8. Date of final outcome of claim.

AFFIDAVIT All applications must be signed and notarized.

I, _____, depose and say that I am the person referred to in the foregoing application and supporting documents and that I am of good moral character. I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein and all supporting documents are true and correct to the best of my knowledge. I further solemnly swear upon my honor that if granted a license to practice Acupuncture within the State of Nebraska, that I shall abide by the laws of Nebraska.

Signature of Applicant _____ Date _____
(M/D/Y)

State of _____)
)
County of _____)

In _____ (city) in said county on this day of _____, 20____,

_____ personally appeared before me, and being duly sworn, deposes and says that he/she has carefully and truthfully completed this application.

(SEAL)

Notary Public

State of Nebraska Department of Health and Human Services
Regulation and Licensure Credentialing Division
PO Box 94986, Lincoln NE 68509-4986 (402) 471-2118

CERTIFICATE OF ACUPUNCTURE EDUCATION

Name of University/School or College

Street City State Zip

I, _____, have applied for a license to practice acupuncture in the State of
(Print full name of license applicant)

Nebraska. As part of the application process, the State of Nebraska requires a verification of my acupuncture education.

I hereby authorize _____, its staff or representative to provide the State of
(Name of School or College)

Nebraska any and all information requested below, whether such information is favorable or unfavorable, and I hereby release from any and all liability the above named society and/or person for any and all acts performed in fulfilling this request, provided that such acts are performed in good faith and without malice. Further, I request that this completed form be sent directly to the State of Nebraska. I understand that completed forms returned to me will not be accepted for verification purposes.

Sincerely, _____ Date of Birth _____/_____/_____
(Signature of Applicant) MO DAY YEAR

Social Security Number _____ Date of Graduation _____/_____/_____
MO DAY YEAR

The following section must be completed by the dean or registrar of the acupuncture school and returned directly to the State of Nebraska. Certificates returned directly to the applicant will not be accepted. Any substitutions must contain all required information or it will not be accepted for verification purposes. Please complete all sections and provide exact dates.

This certifies that _____
(full name of applicant)

Enrolled in _____
(Name of Acupuncture School or College)

on ____/____/____ graduated on ____/____/____ with the degree of _____
MO DAY YEAR MO DAY YEAR

Further, I certify that the records of this institution indicate that this applicant successfully completed the acupuncture curriculum requirements of the formal, full-time acupuncture program of this university, college or school of acupuncture.
() YES () NO

I certify that the acupuncture program completed by this applicant met or exceeded the following specific requirements:

1,725 hours of entry-level acupuncture education () YES () NO
1,000 didactic hours () YES () NO
500 clinical hours () YES () NO

By _____
Signature of the dean or registrar

SEAL

Signed and the college Seal affixed on ____/____/____
MO Day Year

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 90 LICENSURE AND SUPERVISION OF PHYSICIAN ASSISTANTS

90-001 SCOPE AND AUTHORITY: These regulations govern the credentialing and supervision of physician assistants under Neb. Rev. Stat. §§ 38-2001 to 38-2061 and the Uniform Credentialing Act (UCA).

90-002 DEFINITIONS

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved program means a program for the education of physician assistants which is approved by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agency and which the board formally approves.

Attest or Attestation means that the individual declares that all statements on the application are true and complete.

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 is subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician.

Board means the Board of Medicine and Surgery.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or

exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App 501 et seq., as it existed on January 1, 2007.)

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Physician assistant means any person who graduates from an approved program, who has passed a proficiency examination, and whom the Department, with the recommendation of the Board, approves to perform medical services under the supervision of a physician.

Primary practice site means where the supervising physician(s) maintains his/her primary practice.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Proficiency examination means the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants.

Secondary sites means those practice sites which are not the primary practice site of the supervising physician.

Served in the regular armed forces has the same meaning as "military service" in these regulations.

Supervising physician means a licensed physician who supervises a physician assistant.

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 is sufficient to show ready availability.

90-003 INITIAL CREDENTIAL

90-003.01 Qualifications: To receive a credential to practice as a physician assistant, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Successful completion of an approved program for the education of physician assistants.
4. Examination: Successful completion of the proficiency examination.

90-003.01A To receive a temporary credential to practice as a physician assistant, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Successful completion of an approved program for the education of physician assistants but have not passed the proficiency examination when there are no grounds for denial of the credential.

90-003.01B A temporary credential will be issued for a period not to exceed one year and under such conditions as determined by the Department, with recommendation of the Board. Such period may be extended by the Department with the recommendation of the Board.

90-003.01C A physician assistant with a temporary credential may practice only when the supervising physician is actually present at the practice site.

90-003.02 Application: To apply for a credential to practice as a physician assistant, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;

- (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
- b. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced as a physician assistant in Nebraska before submitting the application; or
 - (2) If s/he has practiced as a physician assistant in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
- c. Indication of whether the applicant is applying for a temporary credential;
- d. Indication of whether the applicant has taken or will be taking the proficiency examination, including dates and location;
- e. Education: name and location of the applicant's approved program for the education of physician assistants;
- f. Indication of whether the applicant holds a Federal Controlled Substances Registration. If yes, list number and expiration date;
- g. The applicant must also provide information related to the following, as requested on the application of the Department:
- (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during the applicant's

- physician assistant educational program or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
- (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- h. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been

- or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
- (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;(12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing

- the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Official documentation showing successful completion of an approved program for the education of physician assistants sent directly to the Department from the institution.
 - f. Official documentation showing successful completion of the proficiency examination submitted directly to the Department from the examination entity.
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

90-003.02A Criminal Background Checks: An applicant must:

- 1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
- 2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked "Reason Fingerprinted", print "Credential";
- 3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
- 4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 90-003.02A1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

90-003.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

90-003.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

90-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

90-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 90-008, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

90-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to being reviewed by the Board will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

90-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 90-011 or such other action as provided in the statutes and regulations governing the credential.

90-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

90-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

90-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

90-004 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential as a physician assistant within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 90-005.03 and 90-005.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

On or before the credential expiration date, the credential holder must:

1. Earn 50 hours of Category 1 continuing education approved as follows:

- a. Approved by the Accreditation Council for Continuing Medical Education (ACCME); the American Osteopathic Association (AOA) or the American Academy of Physician Assistants (AAPA); or
 - b. Meet the National Commission on Certification of Physician Assistants (NCCPA) requirements within the previous 24 month period.
2. Hours are to be earned within 24 months of the date of expiration, except that a licensee who has earned more than 50 hours required for renewal for one 24 month renewal period, is allowed to carry over up to 25 hours to the next 24 month renewal period.

90-005 RENEWAL: An individual who wants to renew his/her physician assistant credential must request renewal as specified in 172 NAC 90-005.02. All physician assistant credentials issued by the Department will expire on October 1 of each odd-numbered year.

90-005.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder by regular mail to the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

90-005.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN), or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - b. May provide the following information about him/herself:

- (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number; and
 - c. Must attest that s/he has met the continuing competency requirements specified in 172 NAC 90-004 or has requested a waiver if s/he meets the requirements of 172 NAC 90-005.03 and/or 90-005.04.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol

- related offense and if treatment was obtained and/or required;
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department;
3. The renewal fee according to 172 NAC 2.

90-005.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 90-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he has been in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he has been on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

90-005.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

90-005.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

90-005.05A The Department/Board will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

90-005.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

90-005.05C Acceptable documentation that the credential holder has met the continuing competency requirements include:

1. Proof of current certification with the National Commission on Certification of Physician Assistants (NCCPA); or
2. Documentation of completion of continuing education approved by the Accreditation Council for Continuing Medical Education (ACCME); the American Osteopathic Association (AOA) or the American Academy of Physician Assistants (AAPA)

90-005.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

90-005.05E The Department/Board will notify the credential holder upon satisfactory completion of the audit.

90-005.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

90-005.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

90-005.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

90-005.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

90-005.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

90-005.08 Expiration of A Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

90-005.08A Failure to Renew: A credential automatically expires without further notice and no opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; and/or
2. Pay the required renewal fee.

90-005.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

90-005.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as a physician assistant terminates.

90-005.05D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 90-011 or such other action as provided in the statutes and regulations governing the credential.

90-005.08E Reinstatement of an Expired Credential: If a credential holder wants to resume practice as a physician assistant after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 90-010.

90-005.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

90-005.06A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

90-005.06B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in practice as a physician assistant, but may represent him/herself as having an inactive credential.

90-005.06C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 90-010.

90-006 REQUIREMENTS FOR SUPERVISION OF PHYSICIAN ASSISTANTS

90-006.01 A supervising physician must:

1. Be licensed to practice medicine and surgery under the Uniform Credentialing Act;
2. Have no restriction imposed by the Board on his/her ability to supervise a physician assistant;
3. Maintain an agreement with the physician assistant pursuant to 172 NAC 90-006.01A.

90-006.01A An agreement between the supervising physician and a physician assistant must:

1. Provide that the supervising physician will exercise supervision over the physician assistant pursuant to the Medicine and Surgery Practice Act and these regulations;
2. Define the scope of practice of the physician assistant, including physician assistant prescribing authority as referred to in 172 NAC 90-006.02A;
3. Provide that the supervising physician will retain professional and legal responsibility for medical services rendered by the physician assistant pursuant to such agreement; and
4. Be signed by the supervising physician and the physician assistant.

90-006.01B The supervising physician must:

1. Keep the agreement on file at his/her primary practice site;
2. Keep a copy of the agreement on file at each practice site where the physician assistant provides medical services; and
3. Make the agreement available to the Board and the Department upon request.

90-006.01C Supervision of a physician assistant by a supervising physician shall be continuous but shall not require the physical presence of the supervising physician at the time and place that the services are rendered.

90-006.01D Each physician assistant and his/her supervising physician shall be responsible to ensure that:

1. The scope of practice of the physician assistant is identified;
2. The delegation of medical tasks is appropriate to the level of competence of the physician assistant;
3. The relationship of and access to the supervising physician is defined; and
4. A process for evaluation of the performance of the physician assistant is established;

90-006.01E No more than four physician assistants can provide medical services under the supervision of the same physician at any one time. The Board may waive this requirement if the supervising physician shows good cause based on, but not limited to:

1. Group practices;
2. Temporary loss of a supervising physician;
3. General level of patient problem complexity; and
4. Practicing in facilities that serve state or federally designated shortage areas or underserved areas.

90-006.02 A physician assistant may perform medical services that:

1. Are delegated by and provided under the supervision of a licensed physician;
2. Are appropriate to the level of competence of the physician assistant;
3. Form a component of the supervising physician's scope of practice, and
4. Are not otherwise prohibited by law.

90-006.02A 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.

90-006.03 All prescriptions and prescription container labels shall bear the name of the physician assistant, and if required for purposes of reimbursement, the name of the supervising physician.

90-006.04 A physician assistant shall be considered an agent of his/her supervising physician in the performance of practice-related activities delegated by the supervising physician, including, but not limited to, ordering diagnostic, therapeutic, and other medical services.

90-006.05 A physician assistant may pronounce death and may complete and sign death certificates and any other forms if such acts are within the scope of practice of the physician assistant and are delegated by his/her supervising physician, and are not otherwise prohibited by law.

90-006.06 In order for a physician assistant to practice in a hospital:

1. His/her supervising physician shall be a member of the medical staff of the hospital;
2. The physician assistant shall be approved by the governing board of the hospital; and
3. The physician assistant will comply with applicable hospital policies, including but not limited to, reasonable requirements that the physician assistant and the supervising physician maintain professional liability insurance with such coverage and limits as established by the governing board of the hospital.

90-006.07 For physician assistants with less than two years' experience, the following minimum requirements for the personal presence of the supervising physician must be met:

1. A physician assistant with a temporary license shall practice only when the supervising physician is actually present at the practice site.
2. A physician assistant that has held a permanent license for less than three months must have the supervising physician physically present a minimum of 20% of the time when the physician assistant is providing medical services.
3. A physician assistant that has held a permanent license for more than three months must have the supervising physician physically present a minimum of 10% of the time when the physician assistant is providing medical services.
4. The time the supervising physician and the physician assistant with a permanent license are together may be less than 10% if the supervising physician shows good cause and is approved by the Board. In determining good cause, factors to consider include but are not limited to:
 - a. The proposed practice site;
 - b. The percentage of time together;
 - c. The experience of the physician assistant;
 - d. The experience the supervising physician has had supervising physician assistants;
 - e. Any previous knowledge the supervising physician has had with the physician assistant's patient care in the community;
 - f. If the site is designated as a state or federal shortage or underserved area; and/or
 - g. The general level of patient problem complexity.

90-006.08 A physician assistant may render medical services in a setting geographically remote from the supervising physician, except that a physician assistant with less than two years of experience shall comply with the following standards of supervision:

1. The physician assistant must hold a permanent license;
2. The supervising physician shall review a minimum of 20 patient medical records per month, of which represents a sample of the patient care the physician assistant has provided. If the physician assistant has provided patient care to fewer than 20 patients per month, the supervising physician shall review 100% of the patient medical records.

90-006.08A The Board may consider an application for waiving the standards of supervision and may waive the standards upon showing of good cause by the supervising physician. In determining good cause, the factors to include but are not limited to:

1. The type of practice setting;
2. The experience of the physician assistant;

3. The experience the supervising physician has had with physician assistants; and
4. The general level of patient problem complexity.

90-007 LIABILITY FOR THE NEGLIGENCE OF THE PHYSICIAN ASSISTANT: Any physician or physician group of physicians utilizing a physician assistant is liable for any negligent acts or omissions of the physician assistant while acting under their supervision and control.

90-008 DISCIPLINARY ACTIONS

90-008.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended,

- revoked, or disciplined in any manner similar to 172 NAC 90-008.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
 13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
 14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
 15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
 16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
 17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
 18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
 19. Failure to maintain the requirements necessary to obtain a credential;
 20. Violation of an order issued by the Department;
 21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
 22. Failure to pay an administrative penalty;
 23. Unprofessional conduct as defined in 172 NAC 90-008.02; or
 24. Violation of the Automated Medication Systems Act.

90-008.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party

- claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
 5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
 6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
 7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
 8. Knowingly disclosing confidential information except as otherwise permitted by law;
 9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
 10. Failure to keep and maintain adequate records of treatment or service;
 11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
 12. Prescribing any controlled substance to:
 - a. Oneself or
 - b. Except in the case of a medical emergency;
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
 13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
 14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
 15. Purchasing or receiving any prescription drug from any source in violation of the Wholesale Drug Distributor Licensing Act;
 16. Practice as a physician assistant while his/her credential is suspended or in contravention of any limitation placed upon his/her credential;
 17. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or credential holder unqualified to practice his/her profession or occupation;
 18. Refusal to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 38-1,110 to 38-1,113 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is credentialed;
 19. Failure to comply with Neb. Rev. Stat. §§ 71-603.01, 71-604, 71-605, or 71-606 relating to the signing of birth and death certificates;
 20. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department; and

21. Providing treatment or consultation recommendations, including issuing a prescription, via electronic or other means, unless the physician has obtained a history and physical evaluation of the patient adequate to establish diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided and that arrangements exist to insure availability of the physician or physician coverage for follow-up patient care.

90-008.03 Temporary Suspension or Limitation

90-008.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 90-008.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

90-008.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

90-008.03C A temporary suspension or temporary limitation of a credential under 172 NAC 90-008.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

90-008.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

90-008.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

90-008.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 90-008.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

90-009 VOLUNTARY SURRENDER OR LIMITATION: A physician assistant may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:

- a. Attest that all the information on the offer is true and complete; and
- b. Provide the credential holder's signature and date.

90-009.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

90-009.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

90-009.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

90-009.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

90-009.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

90-009.06 Reinstatement following voluntary surrender is set out in 172 NAC 90-010.

90-010 REINSTATEMENT: This section applies to physician assistants previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

90-010.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:

- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
- (1) Has met the continuing competency requirements specified in 172 NAC 90-004 within the 24 months immediately preceding submission of the application;
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 90-008 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts.
- e. The applicant must also provide information related to the following, as requested on the application of the Department:
- (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during the applicant's physician assistant educational program or

- postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
- (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

90-010.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

90-010.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or

3. other disciplinary actions on the credential; and/or
Reinstate the credential.

90-010.01C The Department will act within 150 days on all completed applications.

90-010.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

90-010.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 90-010.01.

90-010.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address, and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;

- (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
- (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address; and
 - (3) Fax number.
- d. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during the applicant's physician assistant educational program or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;

- (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
- (c) Surrenders of a state or federal controlled substances registration;
- (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
- (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.

2. Fee: The renewal fee.

90-010.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

90-010.03B The Department, with the recommendation of the Board, may:

- 1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
- 2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
- 3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
- 4. Require the applicant to successfully complete additional education at the expense of the applicant;
- 5. Require the applicant to successfully pass an inspection of his/her practice site; or
- 6. Take any combination of these actions.

90-010.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 90-010.03B, the Board may:

- 1. Deny the application for reinstatement; or
- 2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 90-011, in which case a separate notice of opportunity for hearing will be sent to the applicant.

90-010.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

90-010.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

90-010.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before

filing the current application, the Department may grant or deny the application without another hearing before the Board.

90-010.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

90-010.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

90-010.03I Director's Review: The Director, upon receipt of the board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary or capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to the District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

90-011 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

90-011.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Other government records indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

90-011.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty;

- and
- f. Failure to pay an administrative penalty may result in disciplinary action.
 2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

90-011.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

90-012 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

EFFECTIVE
4/29/14

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 91

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 91 LICENSURE OF PERFUSIONISTS

91-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of perfusionists under Neb. Rev. Stat. §§ 38-2701 through 38-2712 and the Uniform Credentialing Act (UCA).

91-002 DEFINITIONS

ABCP means the American Board of Cardiovascular Perfusion.

Accredited perfusion education program means a program which conforms to the standards established by the Accreditation Committee for Perfusion Education and accredited by the Commission on Accreditation of Allied Health Education Programs or a program with substantially equivalent education standards approved by the Board.

Act means the Perfusion Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Board means the Board of Medicine and Surgery.

Committee means the Perfusionist Committee created under Neb. Rev. Stat. § 38-2712.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or

7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Direct supervision means supervision requiring the immediate physical presence of a licensed perfusionist, overseeing the practice of a temporary perfusionist, except as otherwise provided in 172 NAC 91-003.03C.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Extracorporeal circulation means the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver, or other organs.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensure examination means the certification examination offered by the ABCP that includes Part I, the Perfusion Basic Science Examination, and Part II, the Clinical Applications in Perfusion Examination, or a substantially equivalent examination approved by the Board.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Perfusion means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, and respiratory systems or other organs, or a combination of such activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a licensed physician, including:

1. The use of extracorporeal circulation, long-term cardiopulmonary support techniques including extracorporeal carbon dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies;
2. Counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion;

3. The use of techniques involving blood management, advanced life support, and other related functions; and
4. In the performance of the acts described in items 1 through 3 of this subdivision:
 - a. The administration of:
 - (1) Pharmacological and therapeutic agents; and
 - (2) Blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician;
 - b. The performance and use of:
 - (1) Anticoagulation monitoring and analysis;
 - (2) Physiologic monitoring and analysis;
 - (3) Blood gas and chemistry monitoring and analysis;
 - (4) Hematologic monitoring and analysis;
 - (5) Hypothermia and hyperthermia;
 - (6) Hemoconcentration and hemodilution; and
 - (7) Hemodialysis; and
 - c. The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics, and the implementation of appropriate reporting, clinical perfusion protocols, or changes in, or the initiation of, emergency procedures.

Perfusionist means a person who is licensed to practice perfusion pursuant to the Perfusion Practice Act.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

91-003 INITIAL CREDENTIAL

91-003.01 Qualifications: To receive a credential to practice perfusion, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Graduate from an accredited perfusion education program; and
4. Examination: Pass the licensure examination.

91-003.01A Waiver of Education and Examination Requirements: The Board may waive the education and examination requirements for licensure as a perfusionist for an applicant who:

1. On or before February 27, 2008, submits evidence satisfactory to the Board that the applicant has been operating cardiopulmonary bypass systems for cardiac surgical patients as his/her primary function in a licensed health care facility for at least two of the last ten years prior to September 1, 2007; or
2. Submits evidence of holding a current certificate as a Certified Clinical Perfusionist issued by the ABCP, or its successor; or
3. Submits evidence of holding a credential as a perfusionist issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of Nebraska.

91-003.02 Application: To apply for a credential to practice perfusion, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced perfusion in Nebraska before submitting the application; or
 - (2) If s/he has practiced perfusion in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;

- c. Method of Licensure: The applicant must indicate one of the following methods by which s/he is applying for licensure:
- (1) Education and Examination: If applying for licensure based on meeting education and examination requirements, the applicant must:
 - (a) Provide name and location of the accredited perfusion education program from which the applicant graduated; and
 - (b) Indicate the parts of the licensure examination that the applicant has successfully completed;
 - (2) Work Experience: If applying for licensure on or before February 27, 2008, based on previous work experience, the applicant must have been operating cardiopulmonary bypass systems for cardiac surgical patients as his/her primary function in a licensed health care facility for at least two of the last ten years prior to September 1, 2007;
 - (3) Certification as a Certified Clinical Perfusionist: If applying for licensure based on certification as a Certified Clinical Perfusionist by the American Board of Cardiovascular Perfusion, the applicant must hold current certification as a Certified Clinical Perfusionist issued by the American Board of Cardiovascular Perfusion;
 - (4) Perfusionist Licensure in Another State: If applying for licensure based on perfusionist licensure in another state, the applicant must:
 - (a) List all states where the applicant is or has ever been licensed as a perfusionist; and
 - (b) Indicate whether the applicant's perfusionist license in any state has been disciplined or restricted in any way; and
- d. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:

- (1) Other Credential: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);

- (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education and examination: If applying for licensure based on meeting education and examination requirements, the applicant must:
- (1) Request that official documentation of successful completion of an accredited perfusion education program be sent directly to the Department from the institution. The documentation must indicate the degree received and the date it was conferred; and
 - (2) Request that official documentation of successful completion of the licensure examination be sent directly to the Department from the ABCP or from a substantially equivalent examining entity;
- f. Documentation of work experience: If applying for licensure on or before February 27, 2008, based on previous work experience, the applicant must submit a letter from the licensed health care facility at which the applicant was employed that verifies the applicant has met the work experience requirements;
- g. Documentation of certification as a Certified Clinical Perfusionist: If applying for licensure based on certification as a Certified Clinical Perfusionist by the ABCP, the applicant must submit a copy of the applicant's certification as a Certified Clinical Perfusionist by the ABCP;
- h. Documentation of perfusionist licensure in another state: If applying for licensure based on perfusionist licensure in another state, the applicant must:
- (1) Request that the standards/requirements for licensure in one of these states be sent directly to the Department from the state regulatory authority for review by the Board in determining substantial equivalence;
 - (2) Request that verification of licensure be sent directly to the Department from each state where the applicant is or has ever been licensed as a perfusionist; and
 - (3) If the applicant's perfusionist license in any state has been disciplined or restricted in any way, request that official

- documentation of the disciplinary action be submitted with the verification, including charges and disposition;
- i. Documentation that the applicant:
 - (1) Submitted a completed request for special accommodations, if special testing accommodations are needed by the applicant; and
 - (2) Submitted any other documentation as requested by the Board/Department.
2. Fee: The applicant must submit the required license fee along with the application and all required documentation.

91-003.03 Temporary License:

91-003.03A The Department will issue a temporary license to a person who has applied for licensure as a perfusionist and who, in the judgment of the Department, with the recommendation of the Board, is eligible for examination.

91-003.03B A temporary license will expire one year after the date of issuance. A temporary license may be renewed for a subsequent one-year period, subject to approval by the Board, if the applicant can provide documentation that he/she has been unable to successfully complete the licensure examination and maintains board eligibility with the ABCP. The Department, with the recommendation of the Board, may impose additional conditions or limitations to be met for continued temporary licensure.

91-003.03C An applicant with a temporary license may practice only under the direct supervision of a perfusionist, except when the supervising perfusionist or the facility determines that the temporary licensee is competent to practice without the immediate physical presence of the supervisor.

91-003.04 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

91-003.05 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 91-006, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

91-003.06 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of

the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

91-003.07 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 91-009 or such other action as provided in the statutes and regulations governing the credential.

91-003.08 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

91-003.09 Address Information: Each credential holder must notify the Department of any change to the address of record.

91-003.10 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

91-004 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 91-005.03 and 91-005.04. Each credentialed individual or temporary licensee is responsible for maintaining certificates or records of continuing competency activities.

91-004.01 License to practice perfusion:

91-004.01A On or before the credential expiration date, the credential holder must meet the following competency requirements:

1. Perform a minimum of 80 clinical activities, as defined by ABCP, of which no more than 30 clinical activities may be documented intraoperative pump standbys that must be documentable in an audit; and
2. Earn 30 continuing education units (CEUs), as approved by the ABCP, of which 10 CEUs must be earned in Category 1. Hours are to be earned within the 24 months immediately preceding the date of expiration, except that a licensee who has earned more than the 30 hours required for license renewal for one 24 month renewal period is allowed to carry over up to 15 hours to the next 24 month renewal period.

91-004.01B Clinical activities include:

1. Primary bypass;
2. Instructor for a primary bypass performed by a student;

3. Venovenous bypass;
4. Pump assisted coronary and/or organ perfusion;
5. Cardiopulmonary Support (CPS);
6. Extracorporeal Membrane Oxygenation (ECMO);
7. Ventricular Assist Device (VAD); and
8. Documented intraoperative pump standby.

91-004.01C Each licensee must submit to the Department an attestation that s/he has met the continuing competency requirement for the 24 months immediately preceding the date of expiration; and

91-004.02 Temporary License:

91-004.02A On or before the credential expiration date, the credential holder must meet the following competency requirements:

1. Perform a minimum of 25 clinical activities, of which none may be documented intraoperative pump standbys.

91-004.02B Clinical activities include:

1. Primary bypass;
2. Instructor for a primary bypass performed by a student;
3. Venovenous bypass;
4. Pump assisted coronary and/or organ perfusion;
5. Cardiopulmonary Support (CPS);
6. Extracorporeal Membrane Oxygenation (ECMO);
7. Ventricular Assist Device (VAD); and
8. Documented intraoperative pump standby.

91-004.02C Each temporary licensee must submit to the Department an attestation that s/he has met the continuing competency requirement for the renewal period immediately preceding the temporary license renewal date; and

91-005 RENEWAL: An individual who wants to renew his/her perfusionist credential must request renewal as specified in 172 NAC 91-005.02. All perfusionist credentials issued by the Department will expire on October 1 of each odd-numbered year.

91-005.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and

6. Information on how to request renewal and how to place a credential on inactive status.

91-005.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#) or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number; and
 - c. Must attest that s/he has met the continuing competency requirements specified in 172 NAC 91-004 or has requested a waiver if s/he meets the requirements of 172 NAC 91-005.03 and/or 91-005.04.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the

- state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
- c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department;

3. The renewal fee according to 172 NAC 2.

91-005.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 91-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he has been in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he has been on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

91-005.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

91-005.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

91-005.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

91-005.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

91-005.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes but is not limited to certificates of attendance at continuing competency activities.

91-005.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

91-005.05E The Department will notify the credential holder upon satisfactory completion of the audit.

91-005.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

91-005.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

91-005.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

91-005.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

91-005.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

91-005.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

91-005.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

91-005.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

91-005.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice perfusion terminates.

91-005.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 91-009 or such other action as provided in the statutes and regulations governing the credential.

91-005.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of perfusion after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 91-008.

91-005.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

91-005.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

91-005.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of perfusion, but may represent him/herself as having an inactive credential.

91-005.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 91-008.

91-006 DISCIPLINARY ACTIONS

91-006.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 91-006.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;

12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 91-006.02; or
24. Violation of the Automated Medication Systems Act.

91-006.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;

6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
10. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency:
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
11. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
12. Any departure from or failure to conform to the ethics of the perfusion profession, which ethics are found in the Ethical Standards of the ABCP and in the Code of Ethics of the American Society of ExtraCorporeal Technology (AmSECT);
13. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
14. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;
15. Disruptive perfusionist behavior as manifested by a perfusionist's aberrant behavior which interferes with patient care or could reasonably be expected to interfere with patient care, including, but not limited to, the following:
 - a. Outbursts of rage or violent behavior;
 - b. Repeated failure to respond to calls;
 - c. Throwing instruments, charts, or objects;
 - d. Insulting comments to a patient, patient's family, physicians, or healthcare staff;
 - e. Striking or assaulting a patient, patient's family, physicians, or healthcare staff; and
 - f. Poor hygiene;
16. Practicing perfusion under a false or assumed name;
17. Allowing another person or organization to use his or her license to practice perfusion;
18. Violating any federal law or regulation relating to controlled substances;
19. Use of any therapy, drug or device in a manner inconsistent with the federal Food, Drug and Cosmetic Act;

20. Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
21. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin;
22. Any conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public;
23. Lack of or inappropriate direction, collaboration or direct supervision of a licensed, certified or registered health care provider employed by, supervised by or assigned to the perfusionist;
24. Commission of any act of sexual misconduct, or exploitation related to the person's practice of perfusion. Sexual misconduct in the practice of perfusion means violation of the perfusionist-patient relationship through which the perfusionist uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both;
25. Failure to keep and maintain adequate records of treatment or service; adequate records means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment; and, when investigative or unproven therapies are utilized, the records must include written informed patient consent; and
26. Refusal to undergo an examination defining competency as required by the Board.

91-006.03 Temporary Suspension or Limitation

91-006.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 91-006.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

91-006.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or

temporary limitation order by the Director will take effect when served upon the credential holder.

91-006.03C A temporary suspension or temporary limitation of a credential under 172 NAC 91-006.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

91-006.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

91-006.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

91-006.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 91-006.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

91-007 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

91-007.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

91-007.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered;
or
3. Has had a disciplinary action taken against it.

91-007.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms

and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:

- a. Duration of the surrender;
- b. Whether the credential holder may apply to have the credential reinstated; and
- c. Any terms and conditions for reinstatement.

91-007.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

91-007.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

91-007.06 Reinstatement following voluntary surrender is set out in 172 NAC 91-008.

91-008 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

91-008.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
- (1) Has met the continuing competency requirements specified in 172 NAC 91-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 91-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or

- b. If the credential was voluntarily surrendered, the renewal fee.

91-008.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

91-008.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

91-008.01C The Department will act within 150 days on all completed applications.

91-008.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

91-008.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 91-008.01.

91-008.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);

- (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
- (1) Has met the continuing competency requirements specified in 172 NAC 91-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced; and
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 91-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
2. Fee: The renewal fee.

91-008.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

91-008.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

91-008.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 91-008.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 91-009, in which case a separate notice of opportunity for hearing will be sent to the applicant.

91-008.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

91-008.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;

2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

91-008.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

91-008.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

91-008.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and

4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

91-008.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

91-009 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

91-009.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

91-009.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

91-009.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

91-010 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

EFFECTIVE
APRIL 11, 2015

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 92

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 92 LICENSURE OF GENETIC COUNSELORS

92-001 SCOPE AND AUTHORITY: These regulations govern the licensure of genetic counselors under the Genetic Counseling Practice Act and the Uniform Credentialing Act. Persons providing genetic counseling services to patients located in Nebraska must be licensed as a genetic counselor in Nebraska unless they are exempt under the Act(s).

92-002 DEFINITIONS: For purposes of these regulations, definitions in the Uniform Credentialing Act and the Genetic Counseling Practice Act and the following definitions are hereby adopted.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Licensure in another jurisdiction means holding a credential that authorizes the individual to engage in the profession of genetic counseling which would otherwise be unlawful, from the District of Columbia or any state, territory, or possession of the United States of America, or any province of Canada.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

Served in the regular armed forces has the same meaning as “military service” in these regulations.

92-003 INITIAL LICENSE: To receive a license, an individual must submit a complete application, pay the appropriate fee, and meet the following:

92-003.01 Age and Good Character: Be at least 19 years old and of good character;

92-003.02 Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act; and

92-003.03 Experience: Be certified as a genetic counselor by either the national genetic counseling board or the national medical genetics board.

92-003.03A To receive a license to practice as a genetic counselor, an individual must be certified as a genetic counselor by either the national genetic counseling board or the national medical genetics board.

92-003.03B To receive a license to practice as a genetic counselor on the basis of licensure in another jurisdiction under substantially equivalent requirements as determined by the Department, with the recommendation of the Board.

92-003.03C To receive a provisional license to practice as a genetic counselor, an individual must have been granted active candidate status by the national genetic counseling board.

92-003.04 Denied or Withdrawn Applications

92-003.04A Denied Applications: An applicant for a genetic counseling license or a provisional genetic counseling license whose application is denied by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

92-003.04B Withdrawn Applications: An applicant for a genetic counseling license or a provisional genetic counseling license may request to withdraw the application. A request to withdraw an application will be granted:

1. When the application is incomplete; or
2. When the request for withdrawal is received within five business days of the receipt of a complete application.

If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

92-004 RENEWAL

92-004.01 Genetic Counselors: An individual who wants to renew his/her license to practice as a genetic counselor must, prior to the expiration date, file an application for renewal, pay the fee, and demonstrate compliance with continuing competency requirements.

92-004.01A Continuing Competency: The continuing competency requirement for genetic counselors is either:

1. Recertification with the American Board of Genetic Counseling by examination or by continuing education; or
2. Recertification with the American Board of Medical Genetics by participating in Maintenance of Certification.

92-004.01B Waivers for Military Service

1. Licensees actively engaged in military service are not required to pay the renewal fee.
2. The Department may waive continuing competency requirements if a licensee has served in the regular armed forces of the U.S. during part of the credentialing period immediately preceding the renewal date.

92-004.02 Provisional License: A provisional license is valid for no more than one year from the date of issuance but may be renewed for one additional year if the applicant fails the certification examination one time.

An application for renewal of the provisional license must:

1. Be signed by both the provisional license holder and a qualified supervisor;
2. Be filed within 30 days of when the applicant fails to pass the complete certification examination; and
3. Provide documentation of maintaining active candidate status with the national genetic counseling board or the national medical genetics board.

92-005 DISCIPLINARY ACTION

92-005.01 Grounds for Discipline: A genetic counseling license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. § 38-178 or for unprofessional conduct.

92-005.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of genetic counseling or the ethics of the profession, regardless of whether a person, patient, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to the acts set out in Neb. Rev. Stat. § 38-179 and the following:

1. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;
2. A departure from or failure to conform to the ethics of the genetic counseling profession, which ethics are found in the National Society of Genetic Counselors Code of Ethics;

3. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
4. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin; and
5. Refusal to undergo an examination defining competency as required by the Board.

92-006 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

92-007 FEES

92-007.01 For initial licensure as a genetic counselor, the fee of \$150.

92-007.02 For a provisional license to practice as a genetic counselor, the fee of \$150.

92-007.03 For the biennial renewal of licensure as a genetic counselor, the fee of \$110.

92-007.04 For the renewal of a provisional license to practice as a genetic counselor, the fee of \$55.

Effective Date
07/28/04

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN
SERVICES REGULATION AND LICENSURE

172 NAC 94

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 94

LICENSURE OF MENTAL HEALTH PRACTITIONERS AND THE
CERTIFICATION OF MARRIAGE AND FAMILY THERAPISTS,
PROFESSIONAL COUNSELORS AND SOCIAL WORKERS

94-001 SCOPE AND AUTHORITY: These regulations apply to licensure of mental health practitioners and to the associated certifications of social workers, master social workers, professional counselors, and marriage and family therapists as defined by Neb. Rev. Stat. §§71-1,295 to 71-1,338 and the Uniform Licensing Law.

A license as a mental health practitioner is required if a person wishes to provide mental health services as defined in these regulations, unless s/he meets one of the exemptions identified in Neb. Rev. Stat. §71-1,312. An associated certificate in social work, professional counseling, and/or marriage and family therapy is necessary only if the individual wishes to represent himself/herself as a Social Worker, Certified Professional Counselor, and/or Certified Marriage and Family Therapist.

94-002 DEFINITIONS

Act means Neb. Rev. Stat. §71-1,295 to 71-1,338 known as the Practice of Mental Health section of the Uniform Licensing Law.

Actually Engaged in the Practice of Social Work includes services and activities provided under the direct supervision of a person with at least a master's degree in social work from an approved educational program or services and activities which are classified by title or description of duties and responsibilities as social work practice.

Actively Engaged in the Practice of Marriage and Family Therapy includes services and activities provided under the direct supervision of a person with at least a master's degree in marriage and family therapy from a program approved by the Board, or services and activities that are classified by title or by description of duties and responsibilities as marriage and family therapy practice.

Approved Continuing Education Program means courses, clinics, forums, lectures, training programs, seminars, home study programs, publications, presentations, or video, satellite or other electronic interactive programs, including formal course presentations, that pertain to mental health or the associated certificates and are approved by the Board.

Approved Marriage and Family Therapy Program means:

1. COAMFTE Accreditation: A program of graduate marriage and family therapy education and training approved by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or
2. Related Field: A program in a related field offered by a regionally accredited higher educational institution, such as, but not limited to social work, psychology, sociology, human services, human development, family relations or counseling, must show evidence of course work in the following:
 - a. Marriage and Family Studies: At least 9 semester hours or 13.5 quarter hours. Courses in this area should be a fundamental introduction to systems theory. The student should develop an understanding of family structures and functioning within the social systems framework (including environmental context) and regarding a diverse range of presenting issues (e.g. gender, cultural, substance abuse). Topic areas may include: systems theory, family development, family subsystems, blended families, gender issues in families, cultural issues in families, etc.

This area must have a major focus from systems theory orientation and encompass the social systems orientation. Survey or overview courses in which systems in one of several theories covered is not appropriate. Courses in which systems theory is the overarching framework and other theories are studied in relations to systems theory are appropriate.
 - b. Marriage and Family Therapy: At least 9 semester hours or 13.5 quarter hours. Courses in this area should have a major focus on family systems theory and systemic therapeutic interventions. This area is intended to provide a substantive understanding of the major theories of systems change, and the applied practices evolving from each theoretical orientation, including diagnosis/assessment of individuals, couples and families. Major theoretical approaches might include: strategic, structural, object relations, cognitive behavioral, intergenerational, and integrative models of therapy with individuals, couples, and families.
 - c. Human Development: At least 9 semester hours or 13.5 quarter hours. Courses in this area should provide knowledge of individual personality development and its normal and abnormal manifestations. The student should have relevant course work in human development across the life span which includes special issues that effect an individual's development (e.g. culture, gender, and human sexuality). Topic areas may include: human development, child/adolescent development, psychopathology, personality theory, human sexuality, etc. This material should be

integrated with systems concepts. Test and measurement courses are not accepted toward this area.

- d. Professional Studies: At least 3 semester hours or 4.5 quarter hours. Courses in this area are intended to contribute to the professional development of the therapist. Areas of study should include the therapist's legal responsibilities and liabilities, professional ethics relevant to marriage and family issues, professional values and socialization, and the role of the professional organization, licensure or certification legislation, independent practice and interpersonal cooperation. Religious ethics courses and moral theology courses are not accepted toward this area.
- e. Research: At least 3 semester hours or 4.5 quarter hours. Courses in this area should assist students in understanding and performing research. Topic areas may include: research methodology, quantitative methods, and statistics. Individual personality and test and measurement courses are not accepted toward this area.
- f. Practicum: At least 6 semester hours or 9 quarter hours which includes 300 hours of supervised direct client contact with individuals, couples and families - of this 300 hours, no more than 150 hours may be with individuals.

Approved Mental Health Practice Program means an approved educational program consisting of a master's or doctoral degree, with the focus being primarily therapeutic mental health, from an institution of higher education approved by the Council for Higher Education Accreditation (CHEA) or its successor; and must meet either subsection 1 or 2 as follows:

1. Accredited Programs: The program must be accredited by one of the following accrediting agencies (a program in candidacy does not meet this section):
 - a. Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE);
 - b. Council for Accreditation of Counseling and related Educational Programs (CACREP);
 - c. Council on Social Work Education (CSWE); or
 - d. American Psychological Association (APA).

The program must also include a practicum or internship as follows:

- a. For individuals who completed the practicum/internship before September 1, 1995, the practicum/internship must have been from an approved educational program.
- b. For individuals who completed the practicum/internship after September 1, 1995, the practicum/internship must have included

a minimum of 300 clock hours of direct client contact of which 150 clock hours must be face-to-face in a work setting, under the supervision of a qualified supervisor as defined in 172 NAC 81-002. Any artificial situation where a person presents a problem, such as role playing, is not acceptable; or

2. Other Programs: If the program is not accredited by the agencies identified in section 1 above, the Graduate course work, must have an emphasis on the provision of mental health practice, and include coursework in each of the following:
 - a. A supervised practicum or internship:
 - (1) If an applicant completed the practicum/internship before September 1, 1995, the practicum/internship must have been from an approved educational program.
 - (2) If an applicant completed the practicum/internship after September 1, 1995, the practicum/internship must have included a minimum of 300 clock hours of direct client contact of which 150 clock hours must be face-to-face in a work setting, under the supervision of a qualified supervisor as defined in 172 NAC 94-002. Any artificial situation where a person presents a problem, such as role playing, is not acceptable.
 - b. Theories and Techniques: At least 6 semester hours or 9 quarter hours. Courses that cover therapeutic techniques and strategies for human behavioral intervention. This includes major contributions of the biological, behavioral, cognitive, and social sciences relevant to understanding assessment and treatment of the person and his/her environment with emphases on the social systems framework, personality theories and development through the life cycle, and their application.
 - c. Professional Ethics: At least 3 semester hours or 4.5 quarter hours. The application of ethical and legal issues to the practice. Examples are: family law, codes of ethics, boundaries, peer review, record keeping, confidentiality, informed consent, and duty to warn.
 - d. Assessment Techniques: At least 3 semester hours or 4.5 quarter hours. Includes the process of collecting pertinent data about client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment and/or referral. Examples are: ability to make a clinical diagnostic impression, knowledge of psychopathology, and assessment of substance abuse and other addictions.
 - e. Human Growth and Development: At least 3 semester hours or 4.5 quarter hours. The integration of the psychological, sociological and

biological approaches within the life cycle. Examples are: awareness of culture, gender, or human sexuality at developmental levels, human behavior (normal and abnormal), personality theory, and learning theory.

- f. Research and Evaluation: At least 3 semester hours or 4.5 quarter hours. Includes such areas as statistics or research design and development of research and demonstration proposals.
- g. Undergraduate Courses: Graduate programs accepting an undergraduate course(s) as meeting the course criteria in subsection 2b through 2f will be acceptable. The school must submit a notarized letter, on institutional letterhead, from an authorized person, i.e., the Department Chair of the program, stating the undergraduate course(s) was accepted to meet the educational requirement(s) of the master's degree.

Approved Professional Counseling Program means:

- 1. CACREP Accredited: A program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP); or
- 2. Regionally Accredited: A counseling program from a regionally accredited higher educational institution, which must include graduate course work in each of the following:
 - a. Counseling Theory: At least 3 semester hours of graduate coursework that cover therapeutic techniques and strategies for human behavioral intervention which includes a study of basic theories, principles and techniques of counseling and their application to professional counseling settings;
 - b. Supervised Counseling Practicum: Refers to supervised counseling experience in a work/community based setting for a minimum of 3 semester hours academic credit as part of a master's program component; and
 - c. Completion of at least 3 semester hours of graduate course work in 5 out of 8 of the following areas:
 - (1) Human Growth and Development: Includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels. Emphasis is placed on biopsychosocial approaches. Also included are such areas as human behavior (normal and abnormal), personality theory and learning theory.

- (2) Social and Cultural Foundations: Includes studies of change, ethnic groups, subcultures, changing roles of women, sexism, urban and rural societies, population patterns, cultural morals, use of leisure time and differing life patterns. Such disciplines as the behavioral sciences, economics and political science are involved.
- (3) The Helping Relationship: Includes philosophic bases of the helping relationship; consultation theory, practice, and application; and an emphasis on development of counselor and client (or consultee) self-awareness.
- (4) Group Dynamics, Processing and Counseling: Includes theory and types of groups, as well as descriptions of group practices, methods, dynamics, and facilitative skills. This also includes supervised practice.
- (5) Lifestyle and Career Development: Includes such areas as vocational choice theory, relationship between career choice and lifestyle, sources of occupational and educational information, approaches to career decision making processes and career exploration techniques.
- (6) Appraisal of Individuals: Includes the development of framework for understanding the individual including methods of data gathering and interpretation, individual and group testing, case study approaches, and the study of individual differences. Ethnic, cultural, and sex factors are also considered.
- (7) Research and Evaluation: Includes such areas as statistics, research design and development of research and demonstration proposals. It includes understanding legislation relating to the development of research, program development and demonstration proposals, as well as the development and evaluation of program objectives.
- (8) Professional Orientation: Includes goals and objectives of professional organizations, codes of ethics, legal considerations, standards of preparation, certification, licensing, and role identity of counselors and other personal services specialists.

An approved Social Work Program means an educational program as follows:

1. Baccalaureate degree: Undergraduate social work education and training approved by the Council on Social Work Education (CSWE).

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2. Master's degree: Graduate social work education and training approved by the Council on Social Work Education (CSWE).
3. Doctoral degree programs: Recognized by the Groups for Advancement of Doctoral Education (GADE).

Assessment means the process of collecting pertinent data about client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment and/or referral.

Associated Certificate means a certificate issued to provide for the use of the title certified social worker, certified master social worker, certified professional counselor, or certified marriage and family therapist.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

BAC means blood alcohol content.

Board means the Board of Mental Health Practice.

Certified Marriage and Family Therapist (CMFT) means a person who is certified to practice marriage and family therapy pursuant to the Uniform Licensing Law and who holds a current certificate issued by the Department.

Certified Master Social Worker (CMSW) means a person who meets the standards established in subsection (1) of Neb. Rev. Stat. § 71-1,319 and who holds a current certificate issued by the Department.

Certified Professional Counselor (CPC) means a person who is certified to practice professional counseling pursuant to the Uniform Licensing Law and who holds a current certificate issued by the Department.

Certified Social Worker (CSW) means a person who meets the standards established in subsection (2) of Neb. Rev. Stat. § 71-1,319 and who holds a current certificate issued by the Department.

Client or Client System means an individual, couple, family or group in a professional work setting.

Code of Ethics means the actions or practices defined in 172 NAC 94-016 'Unprofessional Conduct', as defined in these regulations.

Collateral Contact means interactions with individuals on behalf of a client, but not necessarily in the presence of the client, that support, reinforce or otherwise affect the treatment process. Supervision is not considered as collateral contact.

Completed Application means an application with all of the information requested, the signature of the applicant, fees and all required documentation submitted.

Continuing Competency means to ensure:

1. The maintenance by a credentialed person of knowledge and skills necessary to competently practice mental health, marriage and family therapy, professional counseling, and/or social work,
2. The utilization of new techniques based on scientific and clinical advances, and
3. The promotion of research to assure expansive and comprehensive services to the public. It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. § 71-161.09.

Continuing Education is the method of continuing competency.

Continuing Education (CE) Hour or Credit is defined as follows:

1. Academic credit:
 - a. 1 semester hour of academic credit equals 15 continuing education credit hours. 1 semester hour credit audited equals 8 hours of continuing education;
 - b. 1 quarter hour of academic credit equals 10 continuing education credit hours. 1 quarter hour credit audited equals 5 hours of continuing education; and
 - c. 1 trimester hour of academic credit equals 14 continuing education credit hours. 1 trimester hour credit audited equals 7 hours of continuing education.
2. Dissertations may accumulate up to 32 hours of continuing education per biennial renewal period.
3. Teaching: Hours granted for teaching a college/university course are calculated as stated in subsection 2 above; 30 of the 32 hours may be earned per biennial.
4. Home study programs may accumulate up to 20 hours of continuing education per biennial renewal period.
5. Publications may accumulate up to 20 hours of continuing education per biennial renewal period.
6. Educational/training videos may accumulate up to 10 hours of continuing education within a biennial renewal period.
7. Workshop Presenters may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program/course.

Consultation means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a licensed psychologist or a qualified physician in which:

1. The consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant; and
2. The consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

Counseling means a professional relationship in which a mental health practitioner assists another (client) to understand, cope with, solve, and/or prevent problems, such as, but not limited to areas of education, vocation, and/or interpersonal relationships in the social environment.

Department means the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.

Direct Client Contact means:

1. During a practicum direct client contact is contact between the practicum student and a client system, including collateral contacts, while providing mental health services. Supervisory sessions involving only the practicum student and supervisor will not be considered as direct client contact.
2. During completion of the 3,000 hours of supervised experience to fulfill postgraduate requirements for licensure direct client contact is face-to-face contact between a client system and a provisionally licensed mental health practitioner (PLMHP) while providing mental health services. Supervisory sessions involving only the PLMHP and supervisor will not be considered as direct client contact.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Division means the Credentialing Division of the Department of Health and Human Services, Regulation and Licensure of the State of Nebraska.

Ethical Standards means the current Ethical Standards of the American Association of Marriage and Family Therapy (AAMFT), the National Association of State Social Workers (NASW), and the National Board for Certified Counselors (NBCC) as the Code of Professional Conduct for Mental Health Practice in Nebraska. A practitioner is required to comply with the ethical regulations of the National Association under which the practitioner holds an associated certificate. If the practitioner holds only the license as a mental health practitioner, s/he is not required to comply with the AAMFT, NASW, or the NBCC ethical

standards. Copies of the Ethical Standards are available from the appropriate Association.

Inactive Certification means the voluntary termination of the right or privilege to practice social work, professional counseling, or marriage and family therapy. The certificate holder retains the right or privilege to represent himself or herself as having an inactive certificate.

Inactive License means the voluntary termination of the right or privilege to provide mental health services. The licensee retains the right or privilege to represent himself or herself as having an inactive license.

Internship or Practicum means:

1. For mental health practice it is the experience that an intern gained in a program of higher education accredited by the accrediting agency for the Council for Higher Education Accreditation (CHEA) or its successor. Internships or practicums completed after September 1, 1995, must include a minimum of 300 clock hours of direct client contact under the supervision of:
 - a. Hours earned Before September 1, 1994: A qualified physician, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before September 1, 1994; or
 - b. Hours earned After September 1, 1994: A qualified physician, a licensed psychologist, a licensed mental health practitioner for any hours completed after September 1, 1994, or an equivalent license in another jurisdiction;
2. For marriage and family therapy, it is defined in 172 NAC 94-002 "Approved Marriage and Family Therapy Program"; and
3. For professional counseling, it is defined in 172 NAC 94-002 "Approved Professional Counseling Program".

Lapsed Certificate means the voluntary termination of the right or privilege to represent oneself as a certified person and to practice social work, professional counseling, or marriage and family therapy.

Lapsed License means the voluntary termination of the right or privilege to represent oneself as a licensed person and to provide mental health services.

Licensed means an individual who holds a current license to practice.

Licensed Mental Health Practitioner (LMHP) means a person who holds himself/herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services.

1. A person who is licensed as a mental health practitioner and certified as a master social worker may use the title Licensed Clinical Social Worker (LCSW).
2. A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title Licensed Professional Counselor (LPC).
3. A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title Licensed Marriage and Family Therapist (LMFT).

Major Mental Disorder means any mental and emotional disorder in which the following behaviors occur or might reasonably be expected to occur regardless of specific diagnoses or the nature of the presenting complaint:

1. Persistent and/or severe suicidal or homicidal thinking and/or behaviors;
2. Persistent and/or severe behaviors injurious to self and/or others;
3. Psychotic symptoms which include delusions, hallucinations, or formal thought disorders; or
4. Physical complaints or signs suggestive of deterioration or anomaly in physiological, psychophysiological or neuropsychological functioning.

The following diagnoses as referenced in the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases are major mental disorders:

1. Schizophrenia;
2. Major depressive disorder;
3. Bipolar disorder;
4. Delusional disorder;
5. Psychotic disorder;
6. Panic disorder; and
7. Obsessive compulsive disorder.

Certain diagnoses which are referenced in the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases, such as dissociative disorders, post traumatic stress disorder, dissociative identity disorder, severe eating disorder, and borderline personality disorder, are more likely than others to demonstrate one or more of the above behavioral criteria, although these diagnoses alone do not constitute a major mental disorder.

Persons who have exhibited behaviors consistent with a major mental disorder in the past have an increased probability of exhibiting such behaviors in the future, especially under stress.

Marriage and Family Therapy means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems through the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such disorders.

Mental Health means the relative state of emotional well-being, freedom from incapacitating conflicts, and the consistent ability to make and carry out rational decisions and cope with environmental stresses and internal pressures.

Mental Health Focus means an educational process consisting of mental health theories, techniques, practices, and methods necessary to prepare a mental health professional to identify, assess, and intervene with a client population for the primary purposes of providing or resulting in the clients optimal mental health.

Mental Illness means impaired psychosocial or cognitive functioning due to disturbances in any one or more of the following processes: biological, chemical, physiological, genetic, psychological, social, or environmental. Mental illness is extremely variable in duration, severity, and prognosis, depending on the specific type of affliction.

Mental Health Practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations; and includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

1. Mental health practice does not include:
 - a. The practice of psychology or medicine;
 - b. Prescribing drugs or electroconvulsive therapy;
 - c. Treating physical disease, injury, or deformity;
 - d. Diagnosing major mental illness or disorder except in consultation with a qualified physician or licensed clinical psychologist;
 - e. Measuring personality or intelligence for the purpose of diagnosis or treatment planning;
 - f. Using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician or licensed clinical psychologist; or
 - g. Using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed clinical psychologist.

Mental Health Practice Examination means:

1. The Association of Social Work Boards (ASWB) Clinical examination (previously referred to as the Level C category);
2. The Association of Marital and the Family Therapy Regulatory Boards (AMFTRB);
3. The National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE);
4. The Examination for Professional Practice in Psychology (EPPP); or

5. An equivalent examination as determined by the Board.

An applicant who by reason of educational background is eligible for certification as a Certified Master Social Worker, a Certified Professional Counselor, or a Certified Marriage and Family Therapist must take and pass the appropriate certification examination; those not eligible for certification in an associated field must take and pass the NBCC/NCE, NBCC/NCMHCE, or other examination as determined by the Board to be equivalent.

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

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 94.

Official Transcript means issued by and under the original seal of the educational institution.

Professional Counseling means the assessment and treatment of mental and emotional disorders within the context of professional counseling theory and practice of individuals, couples, families, or groups for remuneration and includes, but is not limited to:

1. Assisting individuals or groups through the counseling relationship to develop understanding, define goals, plan action, and change behavior with the goal of reflecting interests, abilities, aptitudes, and needs as they are related to personal and social concerns, educational progress, and occupations;
2. Appraisal activities which means selecting, administering, scoring, and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, except that nothing in this subdivision authorizes a certified professional counselor to engage in the practice of clinical psychology as defined in Neb. Rev. Stat. §71-1,222;
3. Referral activities which evaluate data to identify which persons or groups may better be served by other specialists;
4. Research activities which means reporting, designing, conducting, or consulting on research in counseling with human subjects;
5. Therapeutic, vocational, or personal rehabilitation in relationship to adapting to physical, emotional, or intellectual disability; and
6. Consulting on any activity listed in this section.

Provisionally Certified Master Social Worker means a person who needs to obtain the required three thousand hours of supervised experience in social work as specified in Neb.

Rev. Stat. § 71-1,319 to qualify for certification as a master social worker must obtain a provisional certification as a master social worker.

Provisionally Licensed Mental Health Practitioner means a person who needs to obtain the required three thousand hours of supervised experience in mental health practice as specified in Neb. Rev. Stat. §71-1,314 to qualify for a mental health practitioner license and who must obtain a provisional mental health practitioner license.

Psychotherapy means a specialized formal interaction between a mental health practitioner and a client in which a therapeutic relationship is established to help to resolve symptoms of mental disorder, psychosocial stress, relationship problems and difficulties in coping in the social environment. Some specific types of psychotherapy may include, but are not limited to, psychoanalysis, family therapy, group psychotherapy, supportive treatment, gestalt therapy, experiential therapy, primal therapy, psychosocial therapy, psychodrama, behavioral therapy, clinical hypnosis, addiction therapy, and cognitive therapy.

Qualified Physician means an individual with a current license to practice medicine and surgery and has specialized training in mental health treatment or is a Board Certified Psychiatrist.

Qualified Supervisor means an individual who assumes the responsibility of supervision during the 3,000 hours of post-master's experience.

1. For marriage and family therapy certification a licensed mental health practitioner, licensed psychologist, or licensed physician who:
 - a. Holds a current active license;
 - b. Has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding the application for a provisional license. At least 1 year must have elapsed following completion of any disciplinary terms and conditions. If any of these actions are taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department; and
 - c. Holds an "approved supervisor's" designation certificate from the American Association for Marriage and Family Therapy; or
 - d. Provides evidence of training in clinical supervision equivalent to 15 hours. Evidence must be shown through academic course work, continuing education, or consultation with a qualified marriage and family therapy supervisor, and has 3 years of experience supervising the provision of marriage and family therapy services.
2. For mental health practice licensure a qualified physician, a licensed psychologist, a licensed mental health practitioner, or a similar license/certification in another jurisdiction, who:

- a. Holds a current active license; and
 - b. Has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding the application for a provisional license. At least 1 year must have elapsed following completion of any disciplinary terms and conditions. If any of these actions are taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department.
3. For master social work certification a certified master social worker, who:
- a. Holds a current active certificate; and
 - b. Has had no disciplinary action during the 5 years immediately preceding application for a provisional certificate or during the supervision period. If discipline occurs, the supervisor must terminate the supervision immediately and notify the Department.

Social Work Practice or the Practice of Social Work means the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice:

1. Information, resource identification and development, and/or referral services;
2. Preparation and evaluation of psychosocial assessments and development of social work service plans;
3. Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;
4. Development, implementation, evaluation, and/or administration of social work programs and policies;
5. Supportive contacts to assist individuals and groups with personal adjustment to crisis, transition, economic changes, or a personal or family member's health condition, especially in the area of services given in hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, and correctional facilities;
 - a. Nothing in this section prevents charitable and religious organizations; the clergy; governmental agencies; hospitals; health clinics; home health agencies; schools; shelters for the homeless; shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence; nursing homes; or correctional facilities from providing supportive contacts to assist individuals and groups with adjustment to crisis, transition, economic change, or personal or a family member's health condition if such persons or organizations do not represent himself/herself to be social workers or provides mental health services;

6. Social casework for the prevention of psychosocial dysfunction, disability, or impairment; and
7. Social work research, consultation, and education.
8. Social work practice does not include:
 - a. The measuring and testing of personality or intelligence;
 - b. Accepting fees or compensation for the treatment of disease, injury, or deformity of persons by drugs, surgery, or any manual or mechanical treatment whatsoever;
 - c. Prescribing drugs or electroconvulsive therapy; and
 - d. Treating organic diseases or major psychiatric diseases, except by an individual seeking to fulfill postgraduate requirements for licensure under the supervision of a licensed professional as provided in Neb. Rev. Stat. § 71-1,312.
9. An individual who practices within the confines of this section shall not be required to be licensed as a mental health practitioner or certified as a social worker as long as s/he does not represent himself/herself as a mental health practitioner or as a social worker.

Supervision means the successful completion of 3,000 hours of supervised experience after receipt of the master's degree and during the 5 years immediately preceding the application for licensure and/or certification. The supervised experience must:

1. Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;
2. Include a process which is distinguishable from personal psychotherapy or didactic instruction; and
3. Consist of at least 1,500 hours of direct client contact in a setting where mental health services are being offered during which:
 - a. The supervisee appraises the supervisor of the diagnosis and treatment of clients;
 - b. The clients' cases are discussed;
 - c. Ethical principles of the profession are discussed;
 - d. The supervisor provides the supervisee with oversight and guidance in treating and dealing with clients; and
 - e. The supervisor evaluates the supervisee's performance.

Supervision for Marriage and Family Therapy Certification must also include:

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1. A minimum of 1,500 hours of direct client contact with a minimum cumulative ratio of 2 hours of face-to-face contact between the supervisee and a qualified supervisor per 15 hours of the supervisee's contact with clients, no more than 45 hours may be accumulated without supervision;
2. The supervisor can not supervise more than 6 persons at 1 face-to-face supervisory setting; and
3. Not more than 1,500 hours of supervised experience, which includes, but is not limited to, review of client records, case conferences, direct observation, and video observation.

Supervision for Mental Health Practice must also include:

1. A minimum of 1,500 hours of direct client contact in a setting where mental health services are being offered.
2. No more than 1,500 hours of non-direct service, which includes, but is not limited to, review of client records, case conferences, direct observation, and video observation.
3. Evaluative face-to-face contact for a minimum of 1 hour per week between the supervisee and supervisor.

Supervision for Master Social Work Certification, when conducted within the confines of 172 NAC 94-002 (definition of social work), is:

1. The written records of services or procedures are examined and evaluative interviews are conducted by a certified master social worker; and
2. When a person wishes to apply for a license and certificate, supervision must be provided under a licensed clinical social worker (LCSW) and in accordance with this section .

Therapeutic Mental Health means systematic processes and activities used by mental health professionals and designed to remedy, cure, or abate mental health concerns, disabilities, or problems.

Verified means sworn to before a Notary Public.

94-003 MENTAL HEALTH PRACTITIONER (LMPH) LICENSE REQUIREMENTS: No person may represent himself/herself to be a mental health practitioner unless licensed and no person shall engage in the practice of mental health unless s/he is licensed, except individuals who meet the criteria pursuant to Neb. Rev. Stat. §§71-1,312(1) through 71-1,312(10).

Exceptions from licensure as a mental health practitioner include:

1. Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;
2. Alcohol and drug abuse counselors who are certified by the Office of Mental Health, Substance Abuse, and Addictions of the Department of Health and Human Services from practicing their profession. Such exclusion includes students training and working under the supervision of a certified alcohol and drug abuse counselor to become certified;
3. Any person employed by an agency, bureau, or division of the federal government from discharging his/hers official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed health practitioner, s/he must be licensed;

4. Teaching or the conduct of research related to mental health services or consultation with organizations or institutions of such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;
5. The delivery of mental health services by:
 - a. Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or
 - b. Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional Board;
6. Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;
7. The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;
8. Any person employed by an agency or department of the State of Nebraska from discharging official duties within such agency or Department during the six years immediately following September 1, 1994, except that no person should represent himself or herself as a licensed mental health practitioner unless s/he holds such a license;
9. Any person providing emergency crisis intervention or referral services or limited (temporary) services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice; or
10. Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

The criteria for the issuance of a license and the documentation required by the Department and the Board are set forth below.

94-003.01 INITIAL LICENSURE

94-003.01A Requirements: A person applying for a license to practice mental health, must:

1. Have a master's or doctorate degree of which the course work and training leading to the degree was primarily therapeutic mental health in content as defined in 172 NAC 94-002, and included a practicum or internship. A practicum or internship which is completed after September 1, 1995, must include a minimum of 300 clock hours of direct client contact under supervision;
2. Have 3,000 hours of supervised experience in mental health practice as defined in 172 NAC 94-002. The hours must have been earned after receipt of the master's degree and during the 5 years immediately preceding the application of license;
3. Have passed the mental health practice examination as defined in 172 NAC94-002 and as determined by the Board, with a minimum score as specified below;
 - a. Social Work: An individual who holds a master's or doctorate degree in social work from an approved education program must take the Clinical Category of the ASWB examination and pass with a minimum scaled score of 75.
 - b. Professional Counseling: An individual who by reason of educational background is qualified to be certified as a certified professional counselor must take the National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE) and pass with a minimum score set at the National Cut Score.
 - c. Marriage and Family Therapy: An individual who by reason of educational background is qualified to be certified as a marriage and family therapist must take the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination and pass with a minimum score set at the National Pass Point.
 - d. Any other examination determined by the Board to be equivalent with a minimum score determined by the Board.
4. Have attained at least the age of majority and have good moral character.

94-003.01B Application Process: The following must be submitted to the Department:

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1. A complete application on Attachment A attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript showing proof of a master's or doctoral degree from an approved educational program;
3. Documentation of 3,000 hours of supervised experience in the practice of mental health on Attachment A1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information;
4. Documentation of completion of a practicum/internship.
 - (1) For practicums or internships completed after September 1, 1995, documentation that the practicum or internship consisted of 300 clock hours of direct client contact under supervision on Attachment A2, attached to these regulations and incorporated by this reference or an alternate form which contains the same information.
 - (2) For practicums or internships completed before September 1, 1995, the practicum/internship must be identified as such on the official transcript.
5. Official documentation of passing the licensure examination;
6. If not submitted with a provisional license as specified in 172 NAC 94-004 or 94-006, evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
7. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
8. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and

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- f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
9. One current photograph for the purpose of identification and admission into the examination;
10. If necessary, a completed request for special accommodations on Attachment G, and incorporated in these regulations by this reference or an alternate form which contains the same information;
11. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
12. The required license fee.

94-003.01C Department Responsibility: The Department will notify the applicant of examination eligibility within 30 days of receipt of the application for licensure and will forward to the applicant a schedule of the date, time and place of the examination, and any additional information necessary for taking the examination.

94-003.01D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

94-003.01E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-003.01F Department Review: The Department will act within 150 days upon all completed applications for license.

94-003.02 RECIPROCITY - Mental Health Practitioner Based on a License Issued in Another Jurisdiction

94-003.02A Requirements: An applicant for a license to practice mental health on the basis of licensure from another jurisdiction must:

1. Provide documentation that the standards regulating the practice of mental health in the other jurisdiction are equivalent to those maintained in Nebraska;
2. Have a master's or doctorate degree of which the course work and training leading to the degree was primarily therapeutic mental health in content as defined in 172 NAC 94-002, and included a practicum or internship. A practicum or internship which is completed after September 1, 1995, must

include a minimum of 300 clock hours of direct client contact under supervision;

3. Have passed the mental health practice examination as defined in 172 NAC 94-002 and as determined by the Board, with a minimum score as specified below;
 - a. Social Work: An individual who holds a master's or doctorate degree in social work from an approved education program must take the Clinical Category of the ASWB examination and pass with a minimum scaled score of 75;
 - b. Professional Counseling: An individual who by reason of educational background is qualified to be certified as a certified professional counselor must take the National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE) and pass with a minimum score set at the National Cut Score;
 - c. Marriage and Family Therapy: An individual who by reason of educational background is qualified to be certified as a marriage and family therapist must take the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination and pass with a minimum score set at the National Pass Point;
 - d. Any other examination determined by the Board to be equivalent with a minimum score determined by the Board;
4. Have attained at least the age of majority and have good moral character; and
5. Have been in the active and continuous practice under license or certification in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure.

94-003.02B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment B attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript showing proof of a master's or doctoral degree in a mental health-related field from an approved educational program;

3. Evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
5. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
6. Active Practice - Documentation that the applicant has been in the active and continuous practice under license or certification in the State, territory, or District of Columbia from which s/he comes for at least one year; and has been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure;
7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
8. The required licensure fee .

94-003.02C Certification of Licensure from other State: The applicant must have the licensing or certifying agency submit to the Department a certification of licensure or certification. The application may be submitted on Attachment B1 attached to these regulations and incorporated by this reference, or an alternate form which contains the same information. The certification must certify:

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1. That the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
2. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;
3. If the applicant's license or certification was based on the mental health practice examination as defined in 172 NAC 94-003.02A, item 3:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination; and
 - c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; or
4. If the applicant's license or certification was based on an examination other than an approved mental health practitioner examination:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination;
 - c. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; and
 - d. Documentation that the examination taken is equivalent to the mental health practice examination.

94-003.02D Examination: If the applicant's license or certification was not based on the mental health practitioner examination as defined in 172 NAC 94-003.02A, item 3, or an examination determined to be equivalent, the applicant must take the mental health practitioner examination.

94-003.02E Board Responsibilities: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in mental health practice in Nebraska and must make a recommendation to the Department.

94-003.02F Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

94-003.02G Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty

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pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-003.02H Department Review: The Department will act within 150 days upon all completed applications for license.

94-004 PROVISIONAL MENTAL HEALTH PRACTICE LICENSE REQUIREMENTS (PLMHP):

A person who needs to obtain the required 3,000 hours of supervised experience in mental health practice in Nebraska, as defined in 172 NAC 94-002, in order to qualify for a mental health practitioner license must obtain a provisional mental health before beginning his/her supervised experience. Any hours earned in Nebraska prior to the receipt of the provisional license may not be considered for a license as a mental health practitioner.

The criteria for the issuance of a provisional license and the documentation required by the Department and the Board are set forth below and only applies to those earning hours in Nebraska.

94-004.01 Requirements: A person applying for a provisional license to practice as a mental health practitioner must:

1. Have a master's or doctorate degree of which the course work and training leading to the degree was primarily therapeutic mental health in content as defined in 172 NAC 94-002, and included a practicum or internship. A practicum or internship which is completed after September 1, 1995 must include a minimum of 300 clock hours of direct client contact under supervision;
2. Have arranged supervision with a qualified supervisor in Nebraska; and
3. Have attained at least the age of majority and be of good moral character.

94-004.02 Application Process: The following must be submitted to the Department:

1. An application for a provisional mental health practice license. The application may be submitted on Attachment C attached to these regulations and incorporated by this reference or an alternate form that contains the same information.
2. Official Transcript verifying a master's or doctorate degree from an approved program, which includes coursework as follows:
 - a. A practicum or internship as defined in 172 NAC 94-002;
 - b. Coursework as defined in 172 NAC 94-002. If an individual has not completed all 5 course work areas as specified, the remaining area must be completed prior to licensure; and
 - c. Official course descriptions for each course submitted (i.e., course catalogue, syllabi, etc) and indication of the course name and course number.
3. Evidence of an assigned qualified supervisor;
4. Evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;

- c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
5. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
 7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
 8. The required provisional license fee.

94-004.03 Expiration of a Provisional License: A provisional mental health practice license expires upon the following conditions:

1. Termination of supervision agreement or change in supervisor; or
2. Receipt of the licensure as a mental health practitioner or 5 years after the date of issuance, whichever comes first.

94-004.03A An individual who does not complete the hours required for licensure within the specified 5 year period may re-apply one time for another provisional license.

94-004.04 Client Notification: An individual who holds a provisional mental health practitioner license must inform all clients that s/he holds a provisional license and is practicing mental health under supervision and must identify the supervisor. Failure to make such a disclosure is a ground for discipline as set forth in Neb. Rev. Stat. §71-147.

94-004.05 Change of Supervisor: An individual who changes his/her supervisor or adds a new supervisor must submit an application within 30 days following the change. The application may be submitted on Attachment D attached to these regulations and incorporated by this reference or an alternate format which includes all information as specified in 172 NAC 94-004.01 and 94-004.02.

94-004.06 Termination of Supervision: If a supervisor or provisional licensee terminates supervision, s/he must notify the Department in writing immediately of the date of termination. The Department will record said termination date in the record.

94-004.07 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-004.08 Department Review: The Department will act within 150 days upon all completed applications for license.

94-005 MASTER SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, OR PROFESSIONAL COUNSELOR CERTIFICATE REQUIREMENTS: An individual who is qualified to be licensed as a mental health practitioner may apply for an associated certification as a certified master social worker, a certified professional counselor, or a certified marriage and family therapist.

An individual who practices pursuant to 172 NAC 94-002(definition of social work) is not required to be licensed or certified as long as s/he does not represent himself/herself as a mental health practitioner or as a social worker. An individual may be certified without licensure as a master social worker or as a social worker if s/he practices pursuant to 172 NAC 94-002 (definition of social work).

94-005.01 INITIAL CERTIFICATION AS A CERTIFIED MASTER SOCIAL WORKER:
Any person who presents himself/herself as a social worker must be certified as a master social worker.

94-005.01A Requirements: An applicant as a certified master social worker on the basis of an examination must:

1. Have a master's or doctorate degree in social work from an approved education program approved by the Council on Social Work Education (CSWE) showing receipt of either the master's or doctorate degree in social work;
2. Have 3,000 hours of experience in the practice of social work as defined in 172 NAC 94-002 (definition of social work), under the supervision of a certified master social worker. The hours must have been earned following receipt of the master's or doctorate degree;
3. Have passed the Clinical Social Work examination administered by the American Association of State Social Work Boards (ASWB) with a scaled score of 75 or higher; and
4. Have attained at least the age of majority and have good moral character.

94-005.01B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment A or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript or certified documentation from an approved education program showing receipt of either the master's or doctorate degree in social work;
3. Documentation of 3,000 hours of supervised experience in the practice of social work on Attachment A1;
4. Official documentation of the examination score;
5. Evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
6. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
7. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
8. Attestation by the applicant:
 - a. That s/he has not represented herself/himself as a social worker in Nebraska prior to the application for a certificate; or
 - b. To the actual number of days represented herself/himself as a social worker in Nebraska prior to the application for a certificate; and

9. The required certification fee.

94-005.01C Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, and the credential will be valid until the next subsequent renewal date. If the applicant is only applying for a social work certificate and not a mental health practice license, the Department will also collect the Licensee Assistance Program fee of \$1.

94-005.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-005.01E Department Review: The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Clinical Social Worker".

94-005.02 RECIPROCITY - CERTIFIED MASTER SOCIAL WORKER (BASED ON A LICENSE OR CERTIFICATION IN ANOTHER JURISDICTION)

94-005.02A Requirements: An applicant for certification as a certified master social worker from another jurisdiction must:

1. Qualify for licensure and have made application for a license as a mental health practitioner, except when s/he practices within the confines of 172 NAC 94-002 (definition of social work), licensure is not required;
2. Have a Master's or Doctorate degree in social work from an approved education program;
3. Have been in the active and continuous practice under the license or certification in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for certification;
4. Have passed the Advanced Level C, Advanced or Clinical Social Work Certification examination administered by the Association of Social Work Boards (ASWB) or an equivalent examination with a scaled score of 75 or higher; and
5. Have attained the age of majority and have good moral character.

94-005.02B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment B or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript from an approved education program showing receipt of either the master's or doctorate degree in social work and/or certified proof of receipt of either a master's or doctorate degree in social work from an approved education program;
3. Evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
5. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
6. Documentation that the applicant has been in the active and continuous practice of social work for at least one year of the three years immediately preceding the date of application for a Nebraska certificate; or
 - a. Documentation that the applicant has been in the active and continuous practice of clinical social work for at least one year of the three years immediately preceding the date of application for a Nebraska license and certification, if the applicant intends to provide mental health services as defined in 172 NAC 94-002 (definition of social work);
7. Attestation by the applicant:
 - a. That s/he has not represented herself/himself as a social

- worker in Nebraska prior to the application for a certificate; or
- b. To the actual number of days represented herself/himself as a social worker in Nebraska prior to the application for a certificate; and

8. The required certificate fee.

94-005.02B1 The applicant must have the licensing or certifying agency submit to the Department:

1. A certification on Attachment B1 or an alternate form which contains the same information, that the applicant is duly licensed or certified, that his/her license or certification has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
2. The nature of disciplinary actions, if any, taken against the applicants license or certificate;
3. If the applicant's license or certification was based on the ASWB, Advanced Level C, Advanced or Clinical examination:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination; and
 - c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; or
4. If the applicant's license or certification was based on an examination other than the ASWB, Advanced Level C, Advanced or Clinical Examination:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination; and
 - c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued and that the examination taken is equivalent to the ASWB, Advanced Level C, Advanced or Clinical Examination; or
5. If the applicant's license or certification was not based on the ASWB, Advanced Level C, Advanced or Clinical examination, or an equivalent examination, the applicant must take the ASWB Advanced or Clinical examination.

94-005.02C Examination: If the applicant is intending to provide mental health services, and the applicant's license or certification was not based on the Advanced

Level C or the ASWB Clinical examination, the applicant must take the ASWB Clinical examination.

94-005.02D Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon standards which are equal to those maintained in social work by Nebraska and will make a recommendation to the Department.

94-005.02E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, and the credential will be valid until the next subsequent renewal date. If the applicant is only applying for a social work certificate and not a mental health practice license, the Department will also collect the Licensee Assistance Program fee of \$1.

94-005.02F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-005.02G Department Review: The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Clinical Social Worker".

94-005.03 INITIAL CERTIFICATION AS A PROFESSIONAL COUNSELOR: Any person who represents himself/herself as a certified professional counselor must be certified as a certified professional counselor.

94-005.03A Requirements: An applicant for certification to represent oneself as a certified professional counselor on the basis of examination must:

1. Be licensed, or qualify for licensure and have made application for a license as a mental health practitioner;
2. Have received a master's degree from an approved educational program as specified in 172 NAC 94-002;
3. Have 3,000 hours of experience in professional counseling, as defined in 172 NAC 94-002, after receipt of a master's degree; and
4. Have passed the National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE) with a minimum score set at the National Cut Score.

94-005.03B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment A, or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript from an approved educational program showing receipt of a master's degree or certified documentation of receipt of a master's degree from an approved educational program;
3. Documentation of 3,000 hours of experience in professional counseling after receipt of a master's degree;
4. Official documentation of the examination score;
5. If necessary, a completed request for special accommodations Attachment G attached to these regulations and incorporated by this reference or an alternate form which contains the same information;
6. One current photograph for the purpose of identification and admission into the examination;
7. Attestation by the applicant:
 - a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or
 - b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate; and
8. The required certification fee.

94-005.03C Examination Information: The Department will notify the applicant of examination eligibility within 30 days of receipt of the application for certification and will forward to the applicant a schedule of the date, time and place of the examination, and any additional information necessary for taking the examination.

94-005.03D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the credential will be valid until the next subsequent renewal date.

94-005.03E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-005.03F Department Review: The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Professional Counselor".

94-005.04 RECIPROCITY – CERTIFIED PROFESSIONAL COUNSELOR (BASED ON A LICENSE OR CERTIFICATE ISSUED IN ANOTHER JURISDICTION)

94-005.04A Requirements: An applicant for certification as a certified professional counselor from another jurisdiction must:

1. Qualify for licensure and have made application for a license as a mental health practitioner;
2. Have received a master's degree from an approved educational program as specified in 172 NAC 94-002;
3. Have 3,000 hours of experience in professional counseling as defined in 172 NAC 94-002, after receipt of a master's degree;
4. Have been in the active and continuous practice under the license or certification by examination in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for certification by reciprocity;
5. Have passed the NBCC/NCE or NBCC/NCMHCE examination or an equivalent examination with a minimum score set at the National Cut Score; and
6. Have attained at least the age of majority and have good moral character.

94-005.04B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment B or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript from an approved educational program showing receipt of a master's degree and/or certified documentation of receipt of a master's degree from an approved educational program;
3. Documentation of 3,000 hours of experience in professional counseling after receipt of a master's degree;
4. Evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;

- c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
5. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
 7. Attestation by the applicant:
 - a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or
 - b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate;
 8. The required certification fee; and
 9. Documentation that the applicant has been actively engaged in the practice of professional counseling or in an accepted residency or graduate training program for at least one year of the three years immediately preceding application for certification by reciprocity; and that such licensee or certificate holder has been in the active and continuous practice under license by examination in the State, territory, or District of Columbia from which s/he comes for at least one year.

94-005.04B1 The applicant must have the licensing or certifying agency submit to the Department a certification of licensure or certification on Attachment B1 or an alternate form which contains the same information. The certification must certify:

1. That the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;

2. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;
3. If the applicant's license or certification was based on the NBCC/NCE or NBCC/NCMHCE examination:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination; and
 - c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; or
4. If the applicant's license or certification was based on an examination other than the NBCC/NCE or NBCC/NCMHCE examination:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination;
 - c. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; and
 - d. Documentation that the examination taken is equivalent to the NBCC/NCE or NBCC/NCMHCE examination.

94-005.04C Examination: If the applicant's license or certification was not based on the NBCC/NCE or NBCC/NCMHCE examination, or an equivalent examination, the applicant must take the NBCC/NCE or NBCC/NCMHCE examination.

94-005.04D Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in professional counseling in Nebraska and will make a recommendation to the Department.

94-005.04E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the credential will be valid until the next subsequent renewal date.

94-005.04F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-005.04G Department Review: The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority

to individuals who hold a license and a certification stating they may use the title "Licensed Professional Counselor".

94-005.05 INITIAL CERTIFICATION - MARRIAGE AND FAMILY THERAPY: Any person who represents himself/herself as a certified marriage and family therapist, must be certified as a marriage and family therapist.

94-005.05A Requirements: An applicant for a certificate to represent oneself as a certified marriage and family therapist by examination must:

1. Be licensed, or qualify for licensure and have made application for a license as a mental health practitioner;
2. Have received a master's or doctoral degree in marriage and family therapy from a program approved by the Board or a graduate degree in a field determined by the Board to be related to marriage and family therapy and graduate-level course work determined by the Board to be equivalent to a master's degree in marriage and family therapy as defined in 172 NAC 94-002;
3. Have received at least 3,000 hours of experience in marriage and family therapy under a qualified supervisor as defined in 172 NAC 94-002 following receipt of the graduate degree;
4. Pass the AMFTRB certification examination with a minimum score set at the National Pass Point; and
5. Have attained at least the age of majority and have good moral character.

94-005.05B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment A, or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript from an approved educational program showing receipt of a master's degree or certified documentation of receipt of a master's degree from an approved educational program;
3. Documentation of 3,000 hours of supervised experience in marriage and family therapy after receipt of a master's degree on a form provided by the Department as Attachment A1, or an alternate form which contains the same information;
4. Official documentation of the examination score;
5. Attestation by the applicant:
 - a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or

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b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate; and

6. The required certification fee.

94-005.05C Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the credential will be valid until the next subsequent renewal date.

94-005.05D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-005.05E Department Review: The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Marriage and Family Therapist".

94-005.06 RECIPROCITY - MARRIAGE AND FAMILY THERAPIST (BASED ON A LICENSE OR CERTIFICATE ISSUED IN ANOTHER JURISDICTION)

94-005.06A Requirements: An applicant for certification to represent oneself as a certified marriage and family therapist based on a credential issued by another jurisdiction must:

1. Qualify for licensure and have made application for a license as a mental health practitioner;
2. Provide documentation that the standards regulating marriage and family therapy in the other jurisdiction are equivalent to those maintained in Nebraska;
3. Have received a master's or doctoral degree in marriage and family therapy from a program approved by the Board or a graduate degree in a field determined by the Board to be related to marriage and family therapy and graduate-level course work determined by the Board to be equivalent to a master's degree in marriage and family therapy as defined in 172 NAC 94-002;
4. Pass the AMFTRB certification examination with a minimum score set at the National Pass Point;
5. Have attained at least the age of majority and have good moral character; and
6. Have been in the active and continuous practice under license or certification by examination in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for certification by reciprocity.

94-006.05B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment B or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript from an approved educational program showing receipt of a master's or doctoral degree and/or certified documentation of receipt of a master's or doctoral degree from an approved educational program;

3. Official documentation of having been actively engaged in the practice of marriage and family therapy for at least 3,000 hours after receipt of a master's degree;
4. Evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
5. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
7. Attestation by the applicant:
 - a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or
 - b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate;
8. The required certification fee; and
9. Documentation that the applicant has been actively engaged in the practice of marriage and family therapy or in an accepted residency or graduate training program for at least one year of the three years immediately preceding application for certification by reciprocity; and that such licensee or certificate holder has been in the active and continuous practice under license by examination in the State, territory, or District of Columbia from which s/he comes for at least one year.

94-006.05B1 The applicant must have the licensing or certifying agency submit to the Department a certification of licensure or certification on Attachment B2 or an alternate form which contains the same information. The certification must

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certify:

1. That the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
2. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;
3. If the applicant's license or certification was based on the AMFTRB Certification examination:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination; and
 - c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; or
4. If the applicant's license or certification was based on an examination other than the AMFTRB Certification examination:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination;
 - c. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; and
 - d. Documentation that the examination taken is equivalent to the AMFTRB Certification examination.

94-005.06C Examination: If the applicant's license or certification was not based on the AMFTRB Certification examination, or an equivalent examination, the applicant must take the AMFTRB Certification examination.

94-005.06D Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in marriage and family therapy in Nebraska and will make a recommendation to the Department.

94-005.06E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the credential will be valid until the next subsequent renewal date.

94-005.06F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an

Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-005.06G Department Review: The Department will act within 150 days upon all completed applications for license applications for certification. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Marriage and Family Therapist".

94-006 PROVISIONAL CERTIFICATION AS A MASTER SOCIAL WORKER (PCMSW)

REQUIREMENTS: A person who needs to obtain the required 3,000 hours of supervised experience in social work as specified in 172 NAC 94-002 in order to qualify for a certification as a master social worker must obtain a provisional certification as a master social worker before beginning his/her supervised experience. Any hours earned prior to the receipt of the provisional certificate may not be considered for a certificate as a master social worker.

The criteria for the issuance of a provisional certificate and the documentation required by the Department and the Board are set forth below and only applies to those earning hours in Nebraska.

94-006.01 Requirements: A person applying for only a provisional certification as a master social worker must:

1. Have a master's or doctorate degree from an approved social work program;
2. Have arranged supervision with a qualified supervisor in Nebraska; and
3. Have attained at least the age of majority and be of good moral character.

94-006.02 Application Process: The following must be submitted to the Department:

1. An application for a provisional master social work certificate. The application may be submitted on Attachment C attached to these regulations and incorporated by this reference or an alternate form that contains the same information;
2. Evidence of an assigned qualified supervisor;
3. Official Transcript verifying a master's or doctorate degree from an approved social work master's program;
4. Evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;

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5. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;

6. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
7. Attestation by the applicant:
 - a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or
 - b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate; and
8. The required provisional license fee.

94-006.03 Expiration of a Provisional Certificate: A provisional master social work certificate will expire upon the following conditions:

1. Termination of Supervision Agreement or Change in Supervisor;
2. Receipt of the certificate as a master social worker or 5 years after the date of issuance, whichever comes first.

An individual who does not complete the hours required for certification within the specified 5 year period may re-apply one time for another provisional certificate.

94-006.04 Client Notification: An individual who holds a provisional master social worker certificate must inform all clients that s/he holds a provisional certificate and is practicing social work under supervision and must identify the supervisor. Failure to make such a disclosure is a ground for discipline as set forth in Neb. Rev. Stat. §71-147.

94-006.05 Change of Supervisor: An individual who changes his/her supervisor or adds a new supervisor must submit an application within 30 days following the change. The application may be submitted on Attachment D attached to these regulations and incorporated by this reference or an alternate form which includes all information as specified in 172 NAC 94-006.01 and 94-006.02. A fee is not required for such change.

94-006.06 Termination of Supervision: If a supervisor or provisional licensee terminates supervision, s/he must notify the Department in writing immediately of the date of termination. The Department will record said termination date in the record.

94-006.07 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-006.08 Department Review: The Department will act within 150 days upon all completed applications for license.

94-007 CERTIFIED SOCIAL WORKER: An individual who practices pursuant to 172 NAC 94-002 (definition of social work) is not required to be licensed or certified as long as s/he does not represent himself/herself as a mental health practitioner or as a social worker. An individual may be certified as a social worker if s/he practices pursuant to 172 NAC 94-002.

94-007.01 INITIAL CERTIFICATION

94-007.01A Requirements: An applicant for certification as a certified social worker must:

1. Have a baccalaureate degree, master's degree, or doctorate degree in social work from an approved education program; and
2. Have attained at least the age of majority and have good moral character.

94-007.01B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment E attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript from an approved education program showing receipt of either the baccalaureate or master's degree in social work and/or certified proof of receipt of either a baccalaureate or master's degree in social work from an approved education program;
3. Evidence of having attained at least the age of majority;
4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
5. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;

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- c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
6. Attestation by the applicant:
- a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or
 - b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate; and
7. The required certification fee.

94-007.01C Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

94-007.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-007.01E Department Review: The Department will act within 150 days upon all completed applications for license.

94-007.02 RECIPROCITY - BASED ON A LICENSE OR CERTIFICATION IN ANOTHER JURISDICTION.

94-007.02A Requirements: An applicant for certification to practice social work as a certified social worker by another jurisdiction must:

1. Have a baccalaureate or master's degree in social work from an approved education program;
2. Have attained at least the age of majority and have good moral character; and

3. Have been in the active and continuous practice under license or certification in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for certification.

94-007.02B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment E, or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript from an approved education program showing receipt of either the baccalaureate or master's degree in social work and/or certified proof of receipt of either a baccalaureate or master's degree in social work from an approved education program;
3. Evidence of having attained at least the age of majority, examples of evidence are:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
5. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - f. Documentation that the applicant has been in the active and continuous practice of social work for at least one year of the three years immediately preceding the date of application for a Nebraska certificate;

6. The required certification fee; and
7. Attestation by the applicant:
 - a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or
 - b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate.

94-007.02B1 The applicant must have the licensing or certifying agency submit to the Department a certification of licensure or certification on Attachment E1 or an alternate form which contains the same information. The certification must certify:

1. That the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
2. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;
3. The date of the applicant's license or certification; and
4. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued.

94-007.02C Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in social work in Nebraska and will make a recommendation to the Department.

94-007.02D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

94-007.02E Department Review: The Department will act within 150 days upon all completed applications for license.

94-008 EXAMINATION ELIGIBILITY

94-008.01 Mental Health Practice Examination: A mental health practitioner who does not qualify by his/her educational degree for one of the associated certifications must take the National Board for Certified Counselors National Clinical Mental Health Counselor Examination (NCMHCE) or the National Counselor Examination (NCE). Other examinations determined by the Board to be equivalent may be accepted in place of the NCMHCE or the NCE.

1. To be eligible to take the licensure examination for mental health practice, an applicant must:
 - a. Have received a master's or doctorate degree from an approved program of which the course work and training leading to the degree was primarily therapeutic mental health in content; and
 - b. Submit to the Department:
 - (1) An application for examination on Attachment F attached to these regulations and incorporated by this reference or an alternate form which contains the same information,
 - (2) An official transcript showing proof of a master's or doctoral degree; and
 - (3) The Examination Fee.

94-008.02 Master Social Work Certification Examination: To be eligible to take the certification examination for social work an applicant must:

1. Have received a master's or doctorate degree in social work from an approved program;
2. Submit to the Department:
 - a. An application for examination on Attachment F or on an alternate format; and
 - b. An official transcript showing proof of a master's or doctoral degree in social work.

94-008.03 Professional Counseling Certification Examination: To be eligible to take the certification examination for professional counseling an applicant must meet the requirements as specified in 172 NAC 94-005.03.

94-008.04 Marriage And Family Therapy Certification Examination. To be eligible to take the certification examination for marriage and family therapy an applicant must:

1. Have received a master's or doctoral degree in marriage and family therapy from a program approved by the Board or a graduate degree in a field determined by the Board to be related to marriage and family therapy and graduate-level course work determined by the Board to be equivalent to a master's degree in marriage and family therapy as defined in 172 NAC 94-002; and
2. Submit to the Department:

- a. An application for examination on Attachment F or an alternate form that includes the same information; and
- b. An official transcript showing proof of a master's or doctoral degree.

94-008.05 Special Accommodations: If special accommodations are requested, such request may be submitted on Attachment G attached to these regulations and incorporated by this reference or an alternate form which includes the same information.

94-009 EXAMINATION ADMINISTRATION PROCEDURES

94-009.01 Administration:

1. Social Work Examination: The certification examination for social work will be administered by the testing service on the dates specified by the testing service of each year and the applicant will be notified of the information pertinent to administration of the examination by the Department.
2. Professional Counseling Examination: The certification examination for professional counseling will be administered by the Department, the testing service, or other entities authorized by NBCC.
 - a. The dates for the examinations administered by the testing service or other authorized entities will be determined by said entities.
 - b. The dates for the examinations administered by the Department will be determined by the Department and the applicant will be notified of the date, time, place and other information pertinent to the administration of the examination by the Department.
3. Marriage and Family Therapy Examination: The certification examination for marriage and family therapy will be administered by the testing service as determined by the AMFTRB, and the applicant will be notified of the information pertinent to the administration of the examination by the Department.

94-009.02 Notification of Examination Results: The Division will notify the applicant in writing of the licensure examination and the certification examination results within 6 to 12 weeks following the administration of such examination.

94-009.03 Failed Examinations: An examinee who fails the NBCC examination may retake the examination upon payment of the fee each time s/he is examined. The Department will withhold from the licensure/certification fee the cost of NBCC examination used and the administrative fee as authorized in Neb. Rev. Stat. § 71-163 when an examinee fails a licensure/certification examination and will return to the examinee the remainder of the licensure/certification fee collected, except that:

1. If any component of the national standardized examination is failed, the examinee will be charged the cost for purchasing such examination.
2. If an applicant for a license withdraws his/her application within 30 days of the examination, the examination booklets have been ordered by the Department,

and the examining agency charges the Department for examination booklets ordered whether used or unused, the Department will withhold the cost of the examination and the administrative fee of as authorized in Neb. Rev. Stat. 71-163.

3. This section does not apply to retaking the examination for social work or marriage and family therapy.

94-009.04 Withdrawn Applications: An applicant for a license who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination, except as provided in 172 NAC 94-009.03 item 2, will be allowed the return of his/her fee, except for an administrative fee to be retained by the Department, as authorized in Neb. Rev. Stat. § 71-163.

94-010 RENEWAL PROCEDURES: All licenses and/or certificates issued by the Department pursuant to the Act and these regulations expire on September 1st of each even-numbered year.

An individual who wishes to renew his/her associated certificate must first renew his/her license to practice mental health. An individual who places his/her license to practice mental health on inactive or lapsed status must also place his/her associated certificate on inactive or lapsed status. This does not apply to individuals who practice within the confines of 172 NAC 94-002 (definition of social work) and holds only a certificate as a master social worker or a certificate as a social worker.

94-010.01 Renewal Process: Any licensee/certificate holder who wishes to renew his/her credential must:

1. Meet the continuing competency requirements as specified in 172 NAC 94-014;
2. Pay the renewal fee as prescribed in 172 NAC 94-019; and
3. Respond to the following questions:
 - a. Has your license/certificate in any profession in another state been revoked, suspended, limited, or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the license/certificate or during the time period since initial credentialing in Nebraska if such occurred within the two years prior to the license/certificate expiration date;
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing 32 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing education. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action was taken against the applicant's license/certificate by another state, an official copy of the disciplinary action, including charges and disposition;

- e. If the licensee/certificate holder has been convicted of a felony or misdemeanor:
- (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee/certificate holder explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the licensee/certificate holder is currently on probation.

94-010.02 First Notice: At least 30 days before September 1st of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee/certificate holder at their last place of residence as noted in the records of the Department. It is the responsibility of the licensee/certificate holder prior to the renewal period to notify the Department of any name and/or address changes.

94-010.02A The renewal notice will specify:

1. The name of the licensee/certificate holder;
2. The licensee/certificate holder's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 94-019;
6. The number of continuing education hours required for renewal; and
7. The option to place the license on either inactive or lapsed status.

94-010.02B The licensee/certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee/certificate holder's social security number;
4. Attestation of completing 32 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing education; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

94-010.02C If the licensee/certificate holder wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and

- b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

94-010.02D The Department will notify the licensee/certificate holder in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

94-010.03 Second Notice: The Department will send to each licensee/certificate holder who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 94-010.01 that specify:

1. That the licensee/certificate holder failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 94-020 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency hours within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 94-013.

94-010.03A The licensee/certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee/certificate holder's social security number;
4. Attestation by the licensee/certificate holder:
 - a. That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing 32 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing education; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

94-010.03A1 If the licensee/certificate holder wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:

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- a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her licensed be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

94-010.03A2 The Department will notify the licensee/certificate holder in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

94-010.04 When any licensee/certificate holder fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

94-010.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee/certificate holder fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and to pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

94-010.06 When the licensee/certificate holder has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 94-010.04 and 94-010.05 will not apply.

94-010.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

94-010.08 An individual who practices after expiration of his/her credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020 or such other action as provided in the statutes and regulations governing the credential.

94-011 AUDIT OF CONTINUING COMPETENCY: The Board may select in a random manner a sample of the license and/or certificate renewal applications for audit of continuing education credits. Each licensee and/or certificate holder is responsible for maintaining in his/her personal files such certificates or records of credit from continuing education activities received from providers. A licensee and/or certificate holder selected for audit will be required to produce documentation of his/her attendance at those continuing education activities listed on his/her renewal application.

94-011.01 Audit Requirements:

1. When selected for audit, the licensee and/or certificate holder must provide satisfactory documentation of attendance at or participation in continuing education activities attested to on the licensee's and/or certificate holder's renewal form. Satisfactory documentation includes, but not be limited to, certifications of attendance, certified attendance rosters, evidence of publication, or letters from sponsors of continuing education verifying attendance.

2. The Board reserves the right to audit the continuing competency of any licensee and/or certificate holder by notifying the licensee and/or certificate holder and requesting the licensee and/or certificate holder to produce within 30 days of mailing documents verifying attendance at continuing education programs.
3. Continuing education hours for which no documentation of attendance is produced will not be included in the calculation of the total of continuing education hours earned.
4. Failure to comply with the audit will result in non-renewal of the license and/or certificate.

94-012 WAIVER OF CONTINUING COMPETENCY: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any two-year period or for the period of time since the license and/or certificate was last issued when a licensee and/or certificate holder submits documentation that circumstances beyond his/her control prevented him or her from completing such requirements.

94-012.02A Circumstances include that the licensee and/or certificate holder must:

1. Hold a Nebraska license and/or certificate but is not engaged in mental health practice or an associated profession; or
2. Have been in the service of the regular armed forces of the United States during any part of the period since his/her certificate was issued or last renewed; or
3. Be a legal resident of another state, territory, or the District of Columbia and have not practiced as a licensed mental health practitioner in the State of Nebraska since his/her license was issued or last renewed; or
 - a. If the waiver is requested for an associated certificate, the certificate holder must be a legal resident of another state, territory or the District of Columbia and have not practiced the associated profession in the State of Nebraska since his/her certificate was issued or last renewed; or
4. Have been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours since his/her license and/or certificate was issued or last renewed; or
5. Have been first licensed and/or certified within twenty-four months immediately preceding the license and/or certification renewal date.

94-012.02B Application: Any licensee and/or certificate holder who seeks a waiver of continuing competency must apply to the Board for a recommendation to the Department to waive the continuing education. This application must be made on the renewal notice; and it must be received by the Division on or before September 1 of the year the license and/or certification is subject to renewal.

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1. The licensee and/or certificate holder must submit:
 - a. A request, on the renewal form, for waiver of the continuing education; and
 - b. A statement from a physician stating that the licensee and/or certificate holder was injured or ill, the duration of the illness or injury and the recovery period; and that the licensee and/or certificate holder was unable to attend continuing education activities during that period; or
 - c. Official documentation stating dates of service in the armed forces.

94-012.02C The Department may, upon the recommendation of the Board, grant or deny an application for waiver of the continuing education requirements.

1. When the Department determines to deny an application for waiver of the continuing education requirements, it will send to the applicant by certified mail to the last name and address of record in the Department, a notice setting forth the reasons for the denial determination.
 - a. The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with 184 NAC 1, Rules of Practice and Procedure for the Department.
 - b. The Department will issue at the conclusion of the appeal pursuant to 184 NAC 1 a final order setting forth the results of the appeal.
2. When the Department determines to grant a waiver of the continuing education, the applicant will be notified within 30 days of receipt of the application.

94-013 LICENSE AND/OR CERTIFICATION REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department may revoke a credential when the credential holder fails to meet the renewal requirements.

94-013.01 Revocation for Nonpayment of Renewal Fee or Late fee, or Failure to Submit Documentation of Continuing Competency within Thirty Days of Expiration of the Credential

94-013.01A When a credential holder fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

94-013.01A1 A post revocation notice will be sent which will specify that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential failed to renew the credential or to request that his/her

- credential be placed on inactive or lapsed status;
3. The Department has revoked the credential; and
 4. The credential holder has a right to request reinstatement of the credential.

94-013.02 Revocation for Failure to Meet Continuing Competency Requirements

94-013.02A When a credential holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

94-013.02A1 The revocation notice for failure to meet continuing competency requirements specifies that:

1. The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive or lapsed status;
3. The credential has been revoked for failure to meet continuing competency requirements within thirty days after expiration of the credential and that the revocation will become final unless a request for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
4. The credential holder has a right to request reinstatement of the credential after revocation.

94-014 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSEES AND/OR CERTIFICATE HOLDERS

94-014.01 ACCEPTABLE CONTINUING EDUCATION: The Board of Mental Health Practice does not pre-approve offerings, but may accept as continuing education for licensure and certification renewal learning experiences as set out in 172 NAC 94-014.02, provided they are planned and conducted for mental health practitioners, marriage and family therapists, professional counselors, or social workers, and that they are related to mental health practice. Continuing education for individuals who hold a social work certificate, but are not licensed as a mental health practitioner, must relate to the practice of social work.

94-014.02 General Requirements: On or before September 1 of each even numbered year, each licensed mental health practitioner, certified master social worker, certified social worker, certified professional counselor, and certified marriage and family therapist who is in active practice in the State of Nebraska must:

1. Complete 32 hours of approved continuing education during the proceeding 24 month period. Additional hours earned during this period which are above and beyond the required 32 hours can not be utilized for subsequent renewals;

- a. An individual who holds a mental health practice license and an associated certificate(s) is not required to earn hours for each additional certificate s/he holds;
 - b. Professional Counseling: A person who holds an associated certificate in professional counseling is allowed to count any continuing education hours earned for the renewal of the professional counselor certification as hours approved to renew the mental health practitioner license;
 - c. Social Work: A person who holds an associated certificate in social work is allowed to count any continuing education hours earned for the renewal of the social worker certification as hours approved to renew the mental health practitioner license;
 - d. Marriage and Family Therapy: A person who holds an associated certificate in marriage and family therapy is allowed to count any continuing education hours earned for the renewal of the marriage and family therapist certification as hours approved to renew the mental health practitioner license;
2. Two of the 32 hours must relate to mental health practice ethics;
 3. Be responsible for:
 - a. Assuring the continuing education program meets the appropriate subject matter as follows:
 - (1) Mental Health - Approved Continuing Education: Programs acceptable for continuing education credit for mental health practice must clearly relate to maintaining skills necessary for the safe and competent practice of mental health and are described as follows:
 - (a) College Courses from an approved graduate program;
 - (b) Multi-disciplinary Programs relevant to the individual's practice setting;
 - (c) Educational/Training Videos;
 - (d) Practicums from an approved graduate program;
 - (e) Publications/Articles written by a licensee and/or certificate holder that enhance the maintenance of skills. Such publications/articles written by a licensee and/or certificate holder must be published in a refereed professional journal, or be a chapter of a book, or an entire book;
 - (f) Home Study Programs; and

- (g) Dissertations from an approved graduate program.
- (2) Marriage And Family Therapy - Approved Continuing Education: In addition to the programs for mental health practice, subject matter acceptable for continuing education credit in marriage and family therapy must clearly relate to maintaining skills necessary for the safe and competent practice of marriage and family therapy and is described, but not limited to, the following:
 - (a) College courses from an approved graduate program which include courses:
 - [1] Marriage and Family Studies;
 - [2] Marriage and Family Therapy;
 - [3] Human Development;
 - [4] Professional Studies;
 - [5] Research;
 - [6] Workshops, Seminars, or Conferences;
 - [7] Home Study Programs;
 - [8] Publications; and must appear in a professional journal;
or
 - [9] Dissertations from an approved graduate program.
- (3) Professional Counseling - Approved Continuing Education: In addition to the programs for mental health practice, subject matter acceptable for continuing education credit for professional counseling must clearly relate to maintaining skills necessary for the safe and competent practice of professional counseling and is described, but not limited to, the following:
 - (a) College Courses from an approved graduate program which include course in:
 - [1] Counseling Theory;
 - [2] Human Growth and Development;
 - [3] Social and Cultural Foundations;
 - [4] The Helping Relationship;
 - [5] Group Dynamics, Processing and Counseling;
 - [6] Lifestyle and Career Development;
 - [7] Appraisal of Individuals;
 - [8] Research and Evaluation; or
 - [9] Professional Orientation.
 - (b) Workshops, Seminars, or Conferences;
 - (c) Home Study Programs;
 - (d) Publications must appear in a professional journal; or

- (e) Dissertations from an approved graduate program.
- (4) Non-Acceptable Professional Counseling Continuing Education: Examples of nonacceptable subject matter for continuing education credit for professional counseling includes, but is not limited to the following:
 - (a) Association business meeting or delegate report;
 - (b) Leadership training provided through associations; and
 - (c) Business technology, techniques, and management.
- (5) Social Work - Approved Continuing Education: In addition to the programs for mental health practice, subject matter acceptable for continuing education credit in social work must relate to maintaining skills necessary for the safe and competent practice of social work and is described as follows:
 - (a) College Courses from an approved under-graduate or graduate program;
 - (b) Micro/Macro social work practice and research;
 - (c) Multi-disciplinary Programs relevant to the individual's practice setting;
 - (d) Educational/Training Videos;
 - (e) Practicums from an approved under-graduate or graduate program;
 - (f) Publications/Articles written by a certificate holder that enhance the maintenance of skills and must be published in a refereed professional journal, or be a chapter of a book or an entire book;
 - (g) Home Study Programs; and.
 - (e) Dissertations from an approved under-graduate or graduate program.

94-014.03 Presenters who are licensed must maintain documentation of presentation of a continuing education program . A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.

94-014.04 Department Responsibility: The Department will not renew or reinstate the license and/or certification of any person who has not complied with the continuing education requirements of these regulations.

94-014.05 Acceptable Continuing Education Program Criteria: A continuing education program must meet the following criteria to be acceptable for continuing education credit:

1. The program must be at least 60 minutes in duration;
2. The program's objectives must relate to the practice of mental health and/or the associated certificate;
3. Presenters of programs must be qualified by education, experience or training;
4. Programs must be open to all mental health practitioners licensed by Nebraska who meet the training and educational pre-requisites for the program. Employment can not be considered as a pre-requisite;
 - a. Social Work: Programs relating to an associated certificate in social work must be open to all social workers certified by Nebraska who meet the training and education pre-requisites for the program. Employment can not be considered as a pre-requisite;
 - b. Professional Counseling: Programs relating to an associated certificate in professional counseling must be open to all professional counselors certified by Nebraska who meet the training and education pre-requisites for the program. Employment can not be considered as a pre-requisite; and
 - c. Marriage and Family Therapy: Programs relating to an associated certificate in marriage and family therapy must be open to all marriage and family therapists certified by Nebraska who meet the training and education pre-requisites for the program. Employment can not be considered as a pre-requisite.
5. Program provider must have a process for monitoring and verifying attendance.

94-014.06 Home Study Program Criteria: A home study program must meet the following criteria to be acceptable for continuing education:

1. The home study program's objectives must relate to the enhancement of practice/skills of Mental Health, Social Work, Professional Counseling, or Marriage and Family Therapy. The home study program must be relevant to one or more areas as specified in 172 NAC 94-014.02.
2. The provider must be qualified by education, experience, or training; and
3. The provider must employ a system to monitor knowledge obtained by the licensee and/or certificate holder completing a home study program, such as, but not limited to a final examination or program evaluation.

94-014.08 Publications/Articles Criteria: A publication/article must meet the following criteria to be accepted for continuing education credit:

1. The publication/article objectives must relate to the enhancement of skills/practice of Mental Health, Social Work, Professional Counseling, or Marriage and Family Therapy. The publication must be relevant to one or more areas as specified in 172 NAC 94-014.02; and
2. The publication/article must be already published or accepted for publishing in a refereed and/or reviewed professional journal, as a chapter of a book, or as a book.

94-014.09 Educational/Training Video Program Criteria: An educational/training video program must meet the following criteria to be acceptable for continuing education credit:

1. The educational/training video program's objectives must relate to the enhancement of practice/skills of Mental Health, Social Work, Professional Counseling or Marriage and Family Therapy and must relate to 172 NAC 94-014.02.
2. The provider must be qualified by education, experience or training; and
3. The provider must employ a formal system to monitor and verify the use of the educational/training video.

94-014.10 Dissertation Criteria: A dissertation must meet the following criteria to be acceptable for continuing education credit. The dissertations objectives must relate directly to the theory or clinical application of theory relating to Mental Health, Social Work, Professional Counseling, or Marriage and Family Therapy as specified in 172 NAC 94-014.02 and

94-014.11 Practicum Criteria: A practicum must meet the criteria specified in 172 NAC 94-014.02 to be acceptable for continuing education credit.

94-014.12 National, Regional, and International Sponsored Programs: Programs sponsored by national, regional, or international mental health practice associations or associations directly related to enhancing mental health practice will be acceptable for continuing education credit. Sessions must be professionally oriented and approved by that association for continuing education. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal.

1. Programs sponsored by national, regional, or international social work associations or associations directly related to enhancing social work practice need not apply for approval. Sessions must be professionally oriented and approved by that association for continuing education. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal.

2. Programs sponsored by national, regional, or international professional counseling associations or associations directly related to enhancing professional counseling practice need not apply for approval. Sessions must be professionally oriented and approved by that association for continuing education. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal.
3. Programs sponsored by national, regional, or international marriage and family therapy associations or associations directly related to enhancing marriage and family therapy practice need not apply for approval. Sessions must be professionally oriented and approved by that association for continuing education. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal.

94-014.13 Continuing Education Certificate of Completion: Each provider of a continuing education program must furnish to each person completing the program a certificate of completion.

1. Each certificate must include the following:
 - a. Program title;
 - b. Name of the participant;
 - c. Provider's name;
 - d. City, State and Location of the program;
 - e. Date(s) of the program; and
 - f. Number of hours received by the licensee and/or certificate holder.
2. Presentation of the certificate will constitute evidence that the person complied with all requirements of the program and did complete the program.

94-014.14 Program Monitoring: The provider must employ a reliable system to monitor the physical presence of participants throughout the entire program. If a participant chooses not to participate in the entire program, the certificate of attendance must reflect the participant's actual hours of attendance.

94-014.15 Denial of Continuing Education Programs: At the time of renewal the Board will deny a continuing education program on any of the following grounds:

1. Program content or the presenter's qualifications fail to meet requirements specified in 172 NAC 94-014.05;
2. The program's objectives do not relate to the practice of mental health, or to the associated certificate for which the continuing education is being requested;
3. Failure to meet the requirements of 172 NAC 94-014.05; and
4. Failure to reflect participant's actual hours of attendance upon the certificate issued.

94-014.15A Should the Board determine to deny a continuing education program, the Division will send to the applicant by either certified or registered mail to the last address of record in the Department a notice setting forth the reasons for the determination. The denial will become final 30 calendar days after the mailing of the notice unless the applicant within the 30 day period, gives written notice to the Department of a desire for hearing. The hearing will be conducted in accordance with Chapter 84, Article 9 and 184 NAC 1 of the Rules of Practice and Procedure for the Department. The applicant may re-submit the program for re-evaluation.

94-015 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF OR DISCIPLINE A LICENSEE AND/OR CERTIFICATE HOLDER

94-015.01 The Department will deny an application for a license and/or certificate when the applicant fails to meet the requirements for license and/or certification of any of the provisions of 172 NAC 94-003 through 94-0046, or is found to be in violation of any of the provisions of 172 NAC 94-015.

94-015.02 The Department will refuse renewal of a license and/or certificate if the licensee and/or certificate holder fails to meet the requirements specified in 172 NAC 94-010 or 94-0011, or in 94-0012.

94-015.03 The Department may deny, refuse renewal of, limit, suspend, or revoke a license and/or certificate for any of the following grounds and other grounds found in Neb. Rev. Stat. § 71-147:

1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license or certificate.
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state.
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to section 71-172.01.
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's and/or certificate holder's fitness or capacity to practice the profession.
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or with gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession.

6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so.
9. Action taken by another jurisdiction to deny, refuse renewal, limit, suspend or revoke a license and/or certificate to provide mental health services or a license/certificate to practice social work, providing such action against the individual was based upon offenses specified in 172 NAC 94-012 in proceedings comparable to those provided in Neb. Rev. Stat. § 71-155.
10. Unprofessional conduct as defined in 172 NAC 94-016.
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's and/or certificate holder's professional excellence or abilities, in advertisements.
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act.
13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes.
14. Willful or repeated violations of the Uniform Licensing Law or these rules and regulations.
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee and/or certificate holder is not licensed or certified to practice.
16. Failure to file a report required by Neb. Rev. Stat. § 71-168.
17. Practicing the professions of mental health, social work, professional counseling, or marriage and family therapy while his/her license or certificate is suspended or in contravention of any limitation placed upon his/her license or certificate.
18. When the applicant is found to be not qualified to practice the particular profession or occupation for which s/he is applying, licensed, or certified because of physical or mental illness or physical or mental deterioration or disability.
19. Refusal of an applicant for a license and/or certificate or of a licensee and/or certificate holder to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine

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his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed or certified.

20. Failure to disclose to clients that s/he holds a provisional license, is practicing mental health under supervision, and the name of supervisor.

94-016 UNPROFESSIONAL CONDUCT: For purposes of Neb. Rev. Stat. § 71-147, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest. In addition to the acts specified in Neb. Rev. Stat. § 71-148 and pursuant to § 71-147, actions or practices which fail to conform to accepted standards for mental health, social work, professional counseling, or marriage and family therapy, and which could jeopardize the health, safety and welfare of the client constitute unprofessional conduct by a licensed mental health practitioner, certified master social worker, certified social worker, certified professional counselor, or certified marriage and family therapist, and include but are not limited to the following:

94-016.01 Competence: A mental health practitioner, certified master social worker, certified social worker, certified professional counselor, or certified marriage and family therapist must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of mental health services, social work, professional counseling, or marriage and family therapy includes but is not limited to:

1. Committing any act which endangers patient/client safety or welfare; or
2. Failure to adhere to or departure from the standards of acceptable and prevailing practice in mental health practice, social work, professional counseling, or marriage and family therapy.

94-016.02 Confidentiality: A licensee/certificate holder must hold in confidence information obtained from a patient/client, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law.

94-016.03 Professional Relationships: A licensee/certificate holder must safeguard the welfare of patients/clients and maintain professional relationships with patients/clients. Commission of any of the following acts or behavior constitutes unprofessional conduct.

1. Exploiting another person for one's own advantage;
2. Performing or agreeing to perform mental health services, social work, professional counseling, or marriage and family therapy that have been requested when such services are known to be contraindicated or unjustified;
3. Performing or agreeing to perform procedures that have been requested when such procedures are known to be outside of the mental health practice, social work, professional counseling, or marriage and family therapy scope of practice;
4. Verbally or physically abusing patients/clients;
5. Falsification or unauthorized destruction of patients/clients records;

6. Attempting to provide diagnostic or treatment information to patient's/client(s) that is beyond the licensee/certificate holders level of education, training and expertise;
7. Delegating to other personnel those patient/client related services for which the clinical skills and expertise of a licensee/certificate holder are required;
8. Encouraging or promoting the practice of mental health services, social work, professional counseling or marriage and family therapy by untrained or unqualified persons; or
9. Failure to safeguard the patient's/client's dignity and right to privacy.

94-016.04 Sexual Harassment: A licensee/certificate holder must not under any circumstances engage in sexual harassment of patients/clients.

1. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
 - a. Providing or denying care to a patient/client;
 - b. Creating an intimidating, hostile, or offensive environment for the patient/client; or
 - c. Interfering with a patient's/client's ability to recover.

94-016.05 Dual Relationship: Licensees and/or certificate holders must make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, licensees and/or certificate holders should take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Examples of such dual relationships include, but are not limited to, business or close personal relationships with a client. Sexual intimacy with a client 6 months preceding the provision of professional services is prohibited. Sexual intimacy with a former client for 2 years following the termination of therapy is prohibited.

1. Sexual Intimacy means any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. Sexual intimacy may or may not include sexual contact.
 - a. Sexual contact is defined as sexual intercourse, either genital or anal, cunnilingus, fellatio, sodomy or the handling of breasts, genital areas, buttocks, or thighs whether clothed or unclothed, initiated or consented to by licensee.

In the therapeutic relationship, licensees are aware of the intimacy and responsibilities inherent in the therapeutic relationship and must avoid actions that seek to meet their personal needs at the expense of clients. Licensees are aware of their influential positions

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with respect to clients, and they must avoid exploiting the trust and dependency of such persons. Licensees, therefore, must make every effort to avoid conditions and multiple relationships with clients that could impair professional judgement or increase the risk of exploitation.

94-016.06 Other:

1. Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee and/or certificate holder.
2. Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured.
3. Division of fees or agreeing to split or divide the share fees received for professional services with any person for bringing or referring a client.
4. Obtaining any fee for professional services by fraud, deceit or misrepresentation including, but not limited to, falsification of third party claim documents.
5. Cheating on or attempting to subvert the licensure and/or certification examination.
6. Assisting in the care or treatment of a client without the consent of such client or his/her legal representative.
7. The use of any letters, words or terms, either as a prefix, affix, or suffix on stationery, in advertisements or otherwise, indicating that such person is entitled to practice a system or mode of healing for which s/he is not licensed and/or certified.
8. Willful betrayal of a professional secret.
9. Making use of any advertising statements of a character tending to deceive or mislead the public.
10. Advertising professional superiority or the performance of professional services in a superior manner.
11. The violation of an assurance of compliance entered into under Neb. Rev. Stat. § 71-171.02.
12. The commission an any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of mental health, social work, professional counseling, or marriage and family therapy.
13. The failure to keep and maintain adequate records of treatment of service.
14. The use of undue influence to entice clients to commit actions that are emotionally or financially detrimental.
15. The use of any sexual conduct which clearly demonstrates an intent to entice clients to commit actions that may cause present or future emotional or financial harm to the client.

16. Being unable to competently perform mental health, social work, professional counseling, or marriage and family therapy functions because of a psychological impairment.
17. Use of alcohol or other drugs to the point that there is interference with the performance of services provided by the professional.
18. Falsifying or not completing clients' records.
19. Intentional failure to report through the proper channels the incompetent, unethical or illegal practice of any person who is representing himself/herself as a licensed mental health practitioner, or as a certified social worker, certified master social worker, certified professional counselor, or certified marriage and family therapist; unless the licensee/certificate holder acquired the knowledge in a professional relationship otherwise protected by confidentiality.
20. Nothing in 172 NAC 94-015 or 94-016 excludes determination of additional conduct that is unprofessional by adjudication in individual contested cases.

94-017 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

94-017.01 Eligibility

94-017.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

94-017.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

94-017.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 94-020, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the

statutes and regulations governing the credential.

94-017.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 94-003, 94-004, and/or 94-005.

94-017.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 94-020;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

94-017.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status;
or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

94-017.02C The Department will act within 150 days on all completed applications.

94-017.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 94-017.02A and 94-017.02B are final.

94-017.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

94-017.04 Procedures for Moving from Inactive to Active Status: To move a credential from

inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
 - f. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee and any other applicable fees; and
3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

94-017.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 94-020;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

94-017.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

94-017.04C In either event pursuant to 172 NAC 94-017.04A or 94-017.04B, a notice and the opportunity for hearing will be given to the applicant.

94-017.04D The Department will act within 150 days on all completed applications.

94-017.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

94-017.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:

- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees; and
3. Attestation by the applicant:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 94-020 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 94-017.06B below.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

94-017.06A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions or restrictions; or

3. Deny reinstatement.

94-017.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstatement the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 94-020 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstatement the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 94-020 if warranted; or
 - b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

94-017.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

94-017.08 Procedures for Reinstatement More Than One Year Following Revocation for

Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.
 - (6) Verification that the continuing competency requirements for renewal have been met.
2. The renewal fee, the late fee of \$75 and any other applicable fees; and
3. Attestation by the petitioner:

- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
- b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 94-020 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 94-017.08E.

94-017.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

94-017.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

94-017.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

94-017.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

94-017.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

94-017.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

94-017.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

94-017.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.

2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

94-017.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

94-017.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

94-017.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

94-017.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

94-017.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by
 - (1) verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - (2) verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;

3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

94-017.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;

- [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (c) Disciplinary charges pending against any professional credential held by the petitioner;
- (6) Any continuing competency activities.
- 2. The reinstatement fee of \$75; and
- 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 94-020 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 94-017.10F.

94-017.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

- 1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
- 2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
- 3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
- 4. Require the petitioner to complete additional education.

94-017.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

94-017.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

94-017.10D If the Board recommends reinstatement of the credential, no public hearing

need be held on the petition.

94-017.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

94-017.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

94-017.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of such petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

94-017.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

94-017.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

94-017.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;

- b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

94-017.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;

- b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

94-017.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

94-017.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

94-017.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

94-017.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state,

- a list of the state(s) and type of credential;
- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Any continuing competency activities.
- g. An attestation by the applicant:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

94-017.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 94-020;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

94-017.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

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1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

94-017.11A4 In either event pursuant to 172 NAC 94-017.11A2 or 94-017.11A3, a notice and the opportunity for hearing will be given to the applicant.

94-017.11A5 The Department will act within 150 days on all completed applications.

94-017.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

94-017.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.

94-017.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an

Administrative Penalty pursuant to 172 NAC 94-020.

94-017.13 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

94-018 DISCLOSURE OF CONFIDENTIAL INFORMATION: A person licensed or certified pursuant to these regulations must not disclose any information s/he may have acquired from any person consulting him/her in his/her professional capacity except:

1. With the written consent of such person;
2. In the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition;
3. When more than one person in a family received therapy conjointly, each such family member who is legally competent to execute a waiver must agree to the waiver referred to in this section. Without such a waiver from each family member legally competent to execute a waiver, a practitioner must not disclose information received from any family member;
4. As such privilege is limited by the laws of the State of Nebraska or as the board may determine by rule and regulation;
5. When the person waives the privilege by bringing charges against the licensee/certificate holder;
6. When there is a duty to warn under the limited circumstances set forth in 172 NAC 94-018;
7. There is no monetary liability on the part of, and no cause of action will arise against, any person who is licensed or certified pursuant to 172 NAC 94-003 through 94-006 for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the licensee and/or certificate holder a serious threat of physical violence against himself, herself, or a reasonably identifiable victim or victims;
8. The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in 172 NAC 94-018. The duty is discharged by the licensee and/or certificate holder if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.
9. No monetary liability and no cause of action will arise under 172 NAC 94-018 against a licensee or certificate holder for information disclosed to third parties in an effort to discharge a duty arising under 172 NAC 94-018.

94-019 SCHEDULE OF FEES: The following fees have been set by the Department:

94-019.01 Initial and Reciprocity License/Certificate Fee: By an applicant for a license/certificate the following fees, the Licensee Assistance Program fee of \$2, and The actual cost of the national standardized examination:

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|----|--|------|
| 1. | Mental Health Practice License: | \$50 |
| 2. | Marriage and Family Therapy Certificate: | \$25 |
| 3. | Professional Counseling Certificate: | \$25 |
| 4. | Master Social Work Certificate: | \$25 |
| 5. | Social Work Certificate: | \$25 |

94-019.02 Provisional License/Certificate Fee: By an applicant for a provisional license/certificate, the following fees:

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|----|---|------|
| 1. | Provisional Mental Health Practice License: | \$25 |
| 2. | Provisional Master Social Work Certificate: | \$25 |

94-019.03 Pro-rated Initial License/Certificate Fee: For issuance of a credential that will expire within 180 days after its initial issuance date, the fee of \$25 and the Licensee Assistance Program fee of \$1(this does not apply to provisional licensure/certification).

94-019.04 License/Certificate Renewal Fee: By an applicant for renewal on a biennial basis of a credential the following fees and the Licensee Assistance Program fee of \$2.

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|----|--|------|
| 1. | Mental Health Practice License: | \$50 |
| 2. | Marriage and Family Therapy Certificate: | \$25 |
| 3. | Professional Counseling Certificate: | \$25 |
| 4. | Master Social Work Certificate: | \$25 |
| 5. | Social Work Certificate: | \$25 |

94-019.05 Inactive License/Certificate Status Fee: By an applicant to have his/her credential placed on inactive status, the fee of \$25.

94-019.06 Renewal Late Fee: By an applicant for renewal on a biennial basis of a credential, who fails to pay the renewal fee on or before the expiration date of his/her credential, the fee of \$25 as a late fee in addition to the renewal fee.

94-019.07 Certification of License/Certificate Fee: For issuance of a certification of a credential, the fee of \$25. The certification includes information regarding:

1. The basis on which a credential was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the credential; and
4. The current status of the credential.

94-019.08 Verification of License/Certificate Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.

94-019.09 Duplicate License/Certificate Fee: For a duplicate of an original license/certificate document or reissued license or certificate, the fee of \$10.

94-019.10 Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the credentialing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

94-019.11 Reinstatement Late Fee: For reinstatement of a credential for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

94-019.12 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.

94-020 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a license for the purpose of this regulation means practice:

1. Prior to the issuance of a license;
2. Following the expiration of a license; or
3. Prior to the reinstatement of a license.

94-020.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

94-020.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:

- a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

94-020.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

THESE AMENDED RULES AND REGULATIONS:

Replace: Title 172 Chapter 94, Regulations Governing the Licensure of Mental Health Practitioners and the Certification of Marriage and Family Therapists, Professional Counselors, and Social Workers, effective October 26, 1996.

Repeal: Title 172 Chapter 93, Fee Regulations for the Licensure of Mental Health Practitioners and the Certifications as a Marriage and Family Therapist, Professional Counselor and Social Worker.

Approved by the Attorney General: July 20, 2004
Approved by the Governor: July 23, 2004
Filed with the Secretary of State: July 23, 2004

EFFECTIVE DATE: July 28, 2004

The forms referred to in the body of these regulations are available upon request.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 95 ADMINISTRATION OF MEDICATIONS BY MEDICATION AIDES AND
MEDICATION STAFF

95-001 SCOPE: The administration of medication is a regulated activity.

95-001.01 Administration of medication includes three components:

1. The physical act of giving or applying a medication;
2. The recording of the physical act; and
3. The observing and monitoring for, and taking appropriate action regarding, desired effects, side effects, interactions, and contraindications associated with the medication.

95-001.02 All of the components of administration may be performed by:

1. A competent recipient;
2. A caretaker, or
3. A licensed health care professional.

95-001.03 There are circumstances under which it is appropriate and desirable for the individuals set out in 172 NAC 95-001.02 to receive assistance with the administration of medication. These regulations identify the circumstances and conditions under which assistance with administration of medication may be provided by unlicensed individuals as indicated in 172 NAC 95-001.04.

95-001.04 These regulations allow for assistance with the administration of medication only by:

1. Medication aides;
2. Persons licensed to operate a child care facility or staff members of a child care facility; or
3. Staff members of a school.

95-001.05 The persons identified in 172 NAC 95-001.04 may assist with the provision of medication, and with the documentation of the provision of the medication; and, under the specific conditions set forth in 172 NAC 95-006, these persons may also participate in observing and reporting.

95-001.06 These regulations do not govern:

1. Self-administration of medication by a competent individual;
2. Self-provision of medication by a minor or other non-competent individual when directed and monitored by the individual's caretaker or licensed health care professional;
3. Administration of medication by licensed health care professionals;
4. Provision of medication in an emergency situation;
5. Administration of medications to an individual in that individual's home, which includes foster family homes, group homes, child caring agencies and child placing agencies as defined in Neb. Rev. Stat. § 71-1902, except, administration of medication in the home is regulated if provided through a licensed home health agency or through licensed or certified home and community-based providers; and
6. Provision of reminders to persons to self-administer medication or assistance to persons in the delivery of non-therapeutic topical applications by in-home personal services workers.

002 DEFINITIONS: For the purposes of the Act and these regulations, the following definitions apply:

Act means Neb. Rev. Stat. §§ 71-6718 to 71-6742, known as the Medication Aide Act.

Administration of medication includes, but is not limited to:

1. Providing medications for another person according to the five rights;
2. Recording medication provision; and
3. Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication.

Adult means an individual who is not a minor as defined by Neb. Rev. Stat. § 43-2101.

Capability and capacity to make an informed decision about medications means an individual who has knowledge related to the medication(s) such as purposes and desired effects, potential side effects, and the consequences if the medication is not provided and received as prescribed or recommended.

Caretaker means a parent, foster parent, family member, friend, or legal guardian who provides care for an individual. A caretaker provides direction and monitoring and has capability and capacity to observe and take appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with a dose of medication. A caretaker has current first-hand knowledge of the recipient's health status and the medications being provided, and has consistent frequent interaction with the recipient. A staff member of an entity is not a caretaker.

Competent means being an adult who is the recipient of medication and having the capability and capacity to make an informed decision about taking medications.

Department means the Department of Health and Human Services.

Direction and monitoring means the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with the medication. Direction and monitoring can be done by a:

1. Competent recipient;
2. Recipient-specific caretaker; or
3. Licensed health care professional.

Entity means a facility, school, licensed child care facility, or any other business or individual utilizing a medication aide or medication staff.

Facility means a health care facility or health care service as defined in Neb. Rev. Stat. § 71-413 or 71-415 or an entity or person certified by the Department to provide home and community-based services.

Five rights means getting the right drug to the right recipient in the right dosage by the right route at the right time.

Licensed health care professional means a licensed individual for whom administration of medication is included in his/her scope of practice.

Home means the residence of an individual but does not include any facility, school, or licensed child care facility.

Informed decision means a decision made knowingly, based upon capacity to process information about choices and consequences, and made voluntarily.

Medication means any prescription or nonprescription drug intended for treatment or prevention of disease or to affect body function in humans.

Medication aide means an individual who has met all requirements of Title 172 Chapter 96 for registration and is listed on the Medication Aide Registry operated by the Department.

Medication staff means an individual who is licensed to operate a child care facility, or a staff member of a child care facility, or a staff member of a school; and, who has been determined to be competent to assist with the administration of medication.

Nonprescription drug means a drug or device which can be sold without a prescription and meets the requirements defined in Neb. Rev. Stat. § 71-1,142.

Prescription drug means a drug or device which requires a prescription prior to being dispensed, and meets the requirements defined in Neb. Rev. Stat. § 71-1,142. Oxygen is a prescription drug.

Provision of medication means the component of the administration of medication that includes

giving or applying a dose of a medication to an individual and includes assisting an individual in giving or applying such medication to himself or herself. Provision of medication are those components of administration of medication that include providing medications for another person according to the five rights. Provision of medication does not include observing, monitoring, reporting, and otherwise taking appropriate action regarding desired effects, side effects, interactions, and contraindications associated with the medication, or recording the provision of the medication.

PRN means an administration scheme in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness.

Recipient means a person who is receiving medication.

Reviewed periodically means a review for which the time interval is determined by the caretaker or licensed health care professional based upon the health condition of the recipient, the nature of the additional activity, and the experience of the medication aide in the additional activity. The review should be conducted frequently enough to assure recipient safety.

Routine means that the frequency of administration of medication, and the amount, strength, and method of administration are specifically fixed.

School means an entity or person who meets the requirements for a school set by Chapter 79.

95-003 MINIMUM COMPETENCY AREAS AND STANDARDS

95-003.01 Competency Areas: Medication aides and medication staff must be competent in the following areas:

1. Maintaining confidentiality;
2. Complying with a recipient's right to refuse to take medication;
3. Maintaining hygiene and current accepted standards for infection control;
4. Documenting accurately and completely;
5. Providing medications according to the five rights;
6. Having the ability to understand and follow instructions;
7. Practicing safety in application of medication procedures;
8. Complying with limitations and conditions under which a medication aide or medication staff may provide medications;
9. Having an awareness of abuse and neglect reporting requirements; and
10. Complying with every recipient's right to be free from physical and verbal abuse, neglect, and misappropriation or misuse of property.

95-003.02 Competency Standards: The standards for each of the competencies set out in 172 NAC 95-003.01 are:

1. Does not share confidential information except when it affects the recipient's care and is to the appropriate person(s);
2. Does not force recipients to take medication. Uses appropriate measures to encourage taking of medications when directed for recipients who are not competent;
3. Utilizes appropriate infection control principles when providing medications;
4. Accurately documents all medication provided including the name of the medication, dose, route, and time administered and any refusal of medication, and spoilage;
5. Provides the right medication, to the right person, at the right time, in the right dose, and by the right route;
6. Comprehends written or oral directions;
7. Properly:
 - a. Stores and handles all medication in accordance with entity policy;
 - b. Intervenes when unsafe conditions of the medication indicate a medication should not be provided; and
 - c. Provides medication to recipients in accordance with their age and condition;
8. Knows that they must:
 - a. Be competent and have been assessed;
 - b. Always comply with the five rights of provision of medications;
 - c. Record all medication provided or refused; and
 - d. Have additional competencies to provide additional activities;
9. Identifies:
 - a. Occurrences of possible abuse of a vulnerable adult and reports this information to the appropriate person/agency as required by the Adult Protective Services Act; and
 - b. Occurrences of possible abuse or neglect of a child and reports this information to the appropriate person/agency as required by Neb. Rev. Stat. §§ 28-710 to 28-727; and
10. Does not misuse recipient property or cause physical harm, pain, or mental anguish to recipients.

95-003.03 Competency Assessment

95-003.03A Medication aides and medication staff must meet the standards set out in 172 NAC 95-003.02.

95-003.03B The methods for assessment and those who may complete an assessment of medication aides or medication staff are regulated by and set out:

1. For medication aides in 172 NAC 96;
2. For medication staff at schools in 92 NAC 59; and
3. For licensees or medication staff at Family Child Care Homes I and II, medication staff at Child Care Centers, and medication staff at Preschools, in 391 NAC.

95-004 PROVISION OF DIRECTION AND MONITORING: Medications may be provided by medication aides and medication staff only when direction and monitoring is provided and documented.

95-004.01 Direction and monitoring must be provided by:

1. A competent recipient; or
2. A caretaker; or
3. A licensed health care professional. A licensed health care professional who provides direction and monitoring must do so within the prevailing practice standards of the profession. Licensed Practical Nurses must do so under direction and in accordance with the Nurse Practice Act.

95-004.02 A medication aide or medication staff may not provide direction and monitoring but may participate in observing and reporting as provided in 95-006.01, item 3.

95-004.03 Acceptance of responsibility to provide direction and monitoring must be in writing and must be provided by one of the following: a competent recipient, a caretaker, or a licensed health care professional.

95-004.03A Acceptance of responsibility for direction and monitoring for a competent recipient may be provided by the recipient for him/herself, a caretaker, or a licensed health care professional.

95-004.03B Acceptance of responsibility for direction and monitoring for recipients who are not competent may be provided by a caretaker or a licensed health care professional.

95-004.03C For recipients who are not competent and for whom there are no caretakers, acceptance of responsibility for direction and monitoring must be provided by a licensed health care professional. Documentation may be accomplished by any of the following methods:

1. When licensed health care professionals are employees, entities may identify on an individual basis or by title and job description/role delineation the licensed health care professional or the classification(s) of licensed health care professionals who are responsible to provide direction and monitoring. Written acceptance of responsibility is not required to be recipient-specific and can be through acceptance of title and job description/role delineation.
2. When licensed health care professionals are not employees, entities must identify the licensed health care professional by name, profession, and license number who is designated to provide direction and monitoring. Written acceptance of responsibility must be recipient-specific.
3. A licensed health care professional who provides direction and monitoring directly to a recipient, rather than indirectly through employment by a facility or other entity, must have a documented professional relationship with the recipient, or with a responsible party on behalf of the recipient. The documentation must include the health care professional's acceptance of the responsibility for direction and monitoring.

95-005 USUAL ACTIVITIES IN THE PROVISION OF MEDICATIONS

95-005.01 All medication aides and medication staff when directed and monitored in accordance with 172 NAC 95-004, may provide routine medications by the following routes:

1. Oral, which includes any medication given by mouth, including sublingual (placing under the tongue) and buccal (placing between the cheek and gum) routes and oral sprays;
2. Inhalation, which includes inhalers and nebulizers. Oxygen may be given by inhalation;
3. Topical application of sprays, creams, ointments, and lotions and transdermal patches; and
4. Instillation by drops, ointments, and sprays into the eyes, ears, and nose.

95-005.02 All medication aides and medication staff must make an accurate record of their provision of medication.

95-005.02A The record of provision of medication must include but is not limited to:

1. Identification of the recipient;
2. Name of the medication given;
3. The date, time, dosage, and route for each medication provided;
4. Identification of the person who provided the medication; and

5. Any refusal by the recipient to take and/or receive a medication.

95-005.02B The record must be given to the entity employing the medication aide or medication staff. The record must be kept and maintained as required by 172 NAC 95-010.

95-005.02C Any medication error must be reported to the person responsible for providing direction and monitoring immediately upon discovery of the error.

95-006 ADDITIONAL ACTIVITIES: In addition to the activities specified in 172 NAC 95-005.01, items 1-4, medication aides and medication staff may provide optional additional activities in accordance with this section. Any additional activity must be done under the direction and monitoring required in 172 NAC 95-004.

95-006.01 The optional additional activities which may be provided by a medication aide or a medication staff are:

1. Provision of PRN medications,
2. Provision of medications by routes in addition to those identified in 172 NAC 95-005 but not including provision of medications or fluids intravenously. Acceptable additional routes may include gastrostomy tube; injections including subcutaneous, intradermal, and intramuscular; rectal; and vaginal; and/or
3. Participation in "direction and monitoring" by observing for identified recipient responses and reporting these responses as directed.

95-006.02 Before an additional activity may be provided, the requirements of 172 NAC 95-006.02A, 006.02B, and 006.02C must each be met:

95-006.02A The specific medication aide or medication staff must be determined to be competent to perform the specific activity, and the determination must be documented as set out in 172 NAC 95-007.

95-006.02B There must be written direction for each additional activity and for each recipient as described in 172 NAC 95-008.

95-006.02C A licensed health care professional must determine that these activities can be done safely for the specific recipient, and the determination must be documented as set out in 172 NAC 95-009.

95-006.03 All medication aides and medication staff must comply with the record keeping and reporting requirements of 172 NAC 95-005.02, including reporting of errors.

95-007 WRITTEN STATEMENT OF COMPETENCY DETERMINATION FOR A MEDICATION AIDE OR MEDICATION STAFF FOR AN ADDITIONAL ACTIVITY: There must be a written statement from a competent recipient, caretaker, or licensed health care professional that the medication aide or medication staff is competent to provide a PRN medication, to provide a medication by an

additional route, or to participate in monitoring. Documentation may be accomplished by any of the following methods:

95-007.01 For competent recipients, there must be a statement indicating informed determination that each medication aide or medication staff who provides the additional activity is competent. In the situation of a competent recipient who is making his or her own determination of need and effectiveness regarding medications, written documentation is not required for PRN medication or for participation in monitoring.

95-007.02 For recipients who are not competent but for whom there are caretakers, there must be a statement from the caretaker indicating his or her determination that a medication aide or medication staff is competent to provide the additional activity. Competency determination of the medication aide or medication staff by the caretaker must be determined on a recipient-specific basis and the documentation must be on an individual-specific basis (each medication aide or medication staff) and not by title or job description.

95-007.03 For recipients who are not competent and for whom there are not caretakers, there must be a statement from a licensed health care professional stating his or her determination that a medication aide or medication staff is competent to provide the additional activity.

95-007.03A An entity which employs licensed health care professionals may identify on an individual basis or by written title and job description both the licensed health care professional who has made the competency determination and those medication aides and medication staff who have been determined competent for each additional activity.

95-007.03B An entity which does not employ licensed health care professionals must identify by name, profession, and license number the licensed health care professional who has made the competency determination and those medication aides and medication staff who have been determined competent for each additional activity. Such persons may be identified on an individual basis or by written title and job description.

95-007.03C A licensed health care professional who provides services directly to a recipient, rather than indirectly through entity employment/contract, must specify those medication aides and medication staff who have been determined competent to provide each additional activity. Such persons must be identified on an individual basis.

95-008 WRITTEN DIRECTION FOR AN ADDITIONAL ACTIVITY: There must be written direction whenever a medication aide or medication staff provides PRN medication(s), provides medication by an additional route, or participates in observing and reporting. The written direction must be specific to each recipient, and provided by a caretaker or licensed health care professional. There is no requirement for written direction when direction and monitoring is provided by a competent recipient. Documentation may be accomplished by any of the following methods:

95-008.01 Direction for PRN medication must include instructions for the recipient-specific criteria under which a specific medication may be provided and the reporting requirements associated with the PRN provision of said medication. The instructions must be for each PRN medication provided and must be readily available for reference by and reviewed periodically with the medication aide or medication staff to assure continued safe provision of PRN medication(s).

95-008.02 Directions for an additional route must include instructions for the recipient-specific procedure and must be readily available at all times to and reviewed periodically with the medication aide or medication staff to assure continued safe provision of medication by an additional route.

95-008.03 Direction for participation in observing and reporting must include instructions for recipient-specific criteria for which the medication aide or medication staff is to observe and report. Instructions must include time lines for observing and reporting, and must identify the person to be notified. Instruction must be readily available for reference by and be reviewed periodically with the medication aide or medication staff to assure continued safe monitoring.

95-009 WRITTEN DOCUMENTATION OF RECIPIENT SAFETY WHEN AN ADDITIONAL ACTIVITY IS PROVIDED: There must be a written statement by a licensed health care professional stating that it is safe for a medication aide or medication staff to provide PRN medication, medication by an additional route, or participate in observing and reporting except when the medication is non-prescription and the monitoring is provided by a competent recipient for him/herself or by a caretaker. Documentation of safety may be accomplished by any of the following methods:

95-009.01 The licensed health care professional making the decision of recipient safety must do so within his/her scope of practice. Licensed Practical Nurses must do so under direction and in accordance with the Nurse Practice Act.

95-009.02 For competent recipients, there must be a statement from a licensed health care professional as identified in 172 NAC 95-009.01 that it is safe for a medication aide or medication staff to provide PRN prescription medication or to provide prescription medication by an additional route.

95-009.03 For recipients who are not competent but for whom there are caretakers, there must be a written statement obtained from a licensed health care professional as identified in 172 NAC 95-009.01 indicating that it is safe for a medication aide or medication staff to provide a PRN prescription medication, a prescription medication by an additional route, and/or to participate in observing and reporting for the identified recipient.

95-009.04 For recipients who are not competent and for whom there are no caretakers, there must be documentation by a licensed health care professional as identified in 172 NAC 95-009.01 who has made recipient-specific determination that it is safe for a medication aide or medication staff to provide a PRN medication, a medication by an additional route, and/or participate in observing and reporting for the identified recipient.

95-009.04A An entity which employs licensed health care professionals may identify on an individual basis or by written title and job description the licensed health care professional who has made the recipient-specific safety determination for each additional activity.

95-009.04B An entity which does not employ licensed health care professionals must identify by name, profession, and license number of the licensed health care professional who has made the recipient-specific safety determination for each additional activity.

95-009.04C A licensed health care professional who provides services directly to a

recipient may identify determination of recipient safety through the written records or plan of care for the recipient.

95-010 RECORD RETENTION

95-010.01 Records required by 172 NAC 95 must be made available to the Department of Health and Human Services and the State Department of Education for inspection and copying upon request.

95-010.02 Facility, child care, or school records must be retained for the length of time required by the applicable licensure regulations, or Department of Education regulations.

95-010.03 All other entities, including licensed health care professionals providing services through contract, must establish policies for record maintenance and retention, and maintain the records for a minimum of two years after the service has been provided. This regulation does not affect the entity's obligation to retain the records for any other purpose.

95-011 STORAGE AND HANDLING OF MEDICATION

95-011.01 Storage: Any entity responsible for administering or providing medication must ensure appropriate storage of the medication. Medications that are in the possession of an entity for emergency purposes are not covered by these regulations and should be more easily accessible than other medications; however, these medications should still be protected and stored appropriately.

95-011.01A All medications that an entity is responsible for administering or providing must be:

1. Protected from theft, tampering, and inappropriate use; and
2. Stored in accordance with the manufacturer's or dispensing pharmacist's instructions as to whether the medication needs to be refrigerated, stored away from light, or any other storage instructions.

95-011.01B Only authorized personnel who are designated by the entity responsible for administration or provision of medications may have access to the medications.

95-011.01C When the entity is not responsible for administering or providing medications, these regulations do not preclude an entity from allowing a recipient to possess and take the recipient's own medications; however, the entity is not required to allow such possession. Examples include but are not limited to minor students in schools, minor children in child care facilities, and incompetent adults in assisted-living facilities.

95-011.02 Handling: The entity must ensure the proper handling of medications it is responsible for administering or providing.

95-011.02A Loss, waste, or spoilage of medication must be recorded according to entity policy.

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95-011.02B Medications sent with a recipient for temporary absences must be in containers identified for the recipient with directions for the right dose, right time, and right route. The medication container must be given only to a competent recipient, to a resident-specific caretaker, or other designated responsible person.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 96 MEDICATION AIDE REGISTRY

96-001 SCOPE AND AUTHORITY: These regulations apply to the establishment and maintenance of the Medication Aide Registry pursuant to the Medication Aide Act. Child care providers, staff members of schools, licensed health care professionals, and persons providing medications in a recipient's home unless provided through a licensed home health agency or a licensed or certified home and community-based provider are not required to be on the Registry.

96-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-6718 through 71-6742, known as the Medication Aide Act.

Active status means the individual has met all requirements for registration, reapplication or renewal and is eligible to administer medications in accordance with the Act.

Administration of medication includes, but is not limited to:

1. Providing medications for another person according to the five rights,
2. Recording medication provision, and
3. Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication.

Complete application means an application that includes all of the information requested, the signature of the applicant, the required fee, and all required documentation.

Department means the Department of Health and Human Services.

Entity means a facility, school, licensed child care facility, or any other business or individual utilizing medication aides or medication staff.

Facility means a health care facility or health care service as defined in Neb. Rev. Stat. § 71-413 or 71-415, or an entity or person certified by the Department to provide home and community- based services.

ICF/MR means an intermediate care facility for persons with mental retardation as defined in Neb. Rev. Stat. § 71-421.

Incompetence means the failure by a medication aide to provide medications according to the competency standards in 172 NAC 96-005.01A.

Licensed health care professional means a licensed individual for whom administration of medication is included in his/her scope of practice.

Medication aide means an individual who has met all requirements for registration and is listed on the Medication Aide Registry operated by the Department.

Medication Aide-40 hour means a medication aide who has completed a 40-hour course and passed an examination identified in 172 NAC 96-004.02.

Medication Aide-20 hour means a medication aide who has, prior to January 1, 2003, completed a 20-hour course and passed an examination identified in 172 NAC 96-004.02. Individuals who, on July 1, 1999, were registered as medication aides as provided by Neb. Rev. Stat. § 71-6742, were not required to take the examination.

Medication staff means an individual who is licensed to operate a child care facility, or a staff member of a child care facility, or a staff member of a school; and, who has been determined to be competent to assist with the administration of medication.

Recipient means any person who is receiving medication.

96-003 REQUIREMENTS FOR PLACEMENT ON THE MEDICATION AIDE REGISTRY

96-003.01 To qualify for placement on the Registry, the applicant must:

1. Meet the requirements for competency in accordance with 172 NAC 96-004 during the six months preceding the period for which the requested registration will be effective;
2. Be at least 18 years of age;
3. Be of good moral character; and
4. Submit to the Department:
 - a. A completed application including applicant name, address, birth date, Social Security Number and identification of any felony or misdemeanor conviction along with date of occurrence and county in which the conviction occurred;
 - b. Certified copies of all charges, amended charges, pleas, sentencing and probation orders for convictions related to:
 - (1) Lewd behavior;
 - (2) Behavior involving minors, except minor in possession (MIP);
 - (3) Taking something belonging to someone else;
 - (4) Physically, verbally, or emotionally threatening, abusing, or

- neglecting another individual;
 - (5) Obstruction of justice/resisting arrest;
 - (6) Failure to appear or comply with citation;
 - (7) Destruction of property;
 - (8) Trespassing; and
 - (9) Manufacture and/or delivery of controlled substances;
- c. All records, documents or information requested by the Department;
 - d. An official record documenting demonstration of competency as specified in 172 NAC 96-004; and
 - e. The required non-refundable fee as specified in 172 NAC 96-011.

96-003.02 Department Responsibilities

96-003.02A The Department will maintain a registry record that contains all of the information requested in the application.

96-003.02B All registrants will be issued a document identifying them as a Medication Aide, Medication Aide-20 hour, or Medication Aide-40 hour. The document will specify the expiration date of the registration.

96-003.02C The Department will act within 30 days upon all completed applications for registration.

96-003.02C1 An individual who has met all of the criteria for registration as identified in 172 NAC 96-003.01 and has taken the exam, if required, may provide medications in accordance with the Act and 172 NAC 96 for a period not to exceed 30 days pending the results of the examination and/or placement on the Registry.

96-003.02D If the Department denies registration, the applicant must be notified and given an opportunity for an informal conference in accordance with Neb. Rev. Stat. § 71-6731 and/or a formal hearing in accordance with the Department's Rules of Practice and Procedure.

96-004 COMPETENCY ASSESSMENT FOR PLACEMENT ON THE REGISTRY: The requirements for demonstration of competence and the required documentation are set forth below:

96-004.01 Medication aides providing services in all settings except an assisted-living facility, ICF/MR, or nursing home must successfully pass a competency assessment as identified in 172 NAC 96-005.

96-004.02 Medication aides providing services in an assisted-living facility, ICF/MR, or nursing home must:

1. Successfully complete a competency assessment as identified in 172 NAC 96-

005.

2. Successfully complete a 40-hour course. The course must be on the competency standards identified in 172 NAC 96-005.01A. The 40-hour course may include the competency assessment identified in 172 NAC 96-005.
 - a. A medication aide who has, prior to January 1, 2003, taken a 20-hour course and passed an examination administered by the Department, may complete an additional 20-hour course to meet the required 40-hour course.
 - b. These course requirements may be met by a person enrolled in an approved program of nursing or other allied health program after the content required for the competencies identified in 172 NAC 96-005.01A have successfully been completed.
 - c. These course requirements may be met by a person who has taken a medication course in another state if the course consisted of the required 40 clock hours.
3. Pass an examination administered by the Department.
 - a. The examination passing standard will be criterion referenced using the Anghoff Method or equivalent method.

96-004.03 Documentation of Competency Assessment or Course Completion

96-004.03A Documentation of successful completion of competency assessment must be by copy of letter, certificate, or other official record from the professional who provided or directed the competency assessment.

96-004.03B Documentation of successful course completion must be by copy of letter, certificate, or other official record from the professional or entity offering the 40-hour course, or the additional 20-hour course for those individuals who, prior to January 1, 2003, had completed a 20-hour course and the state written exam.

96-004.03C Documentation of successful course completion by a student enrolled in an approved program of nursing may be met by a signed statement from a faculty member of the program who is also a licensed health care professional. The written statement must identify the name and Social Security Number of the student and a statement that the student has completed the course work covering the competencies identified in 172 NAC 96-005.01A. For the purposes of the Act and 172 NAC 96, this will meet the requirement of the 40-hour course.

96-004.03D Documentation of successful course completion by a person in another state who has completed a medication course may be met by submitting a copy of the certificate of completion or other official documentation from the course. The documentation must include the name of the individual who has completed the course, the date of course completion, and the number of hours contained in the course.

96-005 REQUIREMENTS FOR INDIVIDUALS AND/OR ENTITIES OFFERING COMPETENCY ASSESSMENTS AND/OR COURSES

96-005.01 Competency Assessment

96-005.01A Competency assessments must include a demonstration of each of the following competency areas and standards:

1. Maintaining confidentiality; Standard: Does not share confidential information except when it affects the recipient's care and is to the appropriate person(s);
2. Complying with a recipient's right to refuse to take medication; Standard: Does not force recipients to take medication. Uses appropriate measures to encourage taking of medications when directed for recipients who are not competent;
3. Maintaining hygiene and current accepted standards for infection control; Standard: Utilizes appropriate infection control principles when providing medications;
4. Documenting accurately and completely; Standard: Accurately documents all medication provided including the name of the medication, dose, route, and time administered and any refusal of medication, and spoilage;
5. Providing medications according to the five rights; Standard: Provides the right medication, to the right person, at the right time, in the right dose, and by the right route;
6. Having the ability to understand and follow instructions; Standard: Comprehends written or oral directions;
7. Practicing safety in application of medication procedures; Standard: Properly:
 - a. Stores and handles all medication in accordance with entity policy;
 - b. Intervenes when unsafe conditions of the medication indicate a medication should not be provided; and
 - c. Provides medication to recipients in accordance with their age and condition;
8. Complying with limitations and conditions under which a medication aide or medication staff may provide medications; Standard: Knows that they must:
 - a. Be competent, have been assessed, and if applicable, be listed on the Medication Aide Registry with an active status;
 - b. Always comply with the five rights of provision of medications;
 - c. Record all medication provided or refused; and

- d. Have additional competencies to provide additional activities;
- 9. Having knowledge of abuse and neglect reporting requirements;
Standard: Identifies:
 - a. Occurrences of possible abuse of a vulnerable adult and reports this information to the appropriate person/agency as required by the Adult Protective Services Act; and
 - b. Occurrences of possible abuse or neglect of a child and reports this information to the appropriate person/agency as required by Neb. Rev. Stat. §§ 28-710 to 28-727; and
- 10. Complying with every recipient's right to be free from physical and verbal abuse, neglect, and misappropriation or misuse of property;
Standard: Does not misuse recipient property or cause physical harm, pain, or mental anguish to recipients.

96-005.01B Competency assessments must be conducted by a licensed health care professional or a registered medication aide. If the competency assessment is conducted by a medication aide, the competency assessment must be designed, directed, and reviewed by a licensed health care professional.

96-005.01B1 A licensed health care professional who has designed and is directing the competency assessment must review the competency assessment process no less than one time per year. The review must include, but is not limited to, a measurement of the desired outcomes of the competency assessment. The licensed health care professional must maintain a record of the review for no less than three years from the date the review was conducted.

96-005.02 Documentation of Competency Assessment: Persons offering competency assessments must provide the medication aide with documentation of successful completion of competency assessment.

96-005.02A Documentation may be by letter, certificate, or other official record and must include:

- 1. The name and Social Security Number of the medication aide who successfully completed the competency assessment;
- 2. The date the competency assessment was conducted; and
- 3. The name, profession, and license number of the licensed health care professional who conducted or designed and directed the competency assessment.

96-005.03 Forty-Hour Course Requirements

96-005.03A The 40-hour course for assisted living, ICF/MR, and nursing home must be on the competencies identified in 172 NAC 96-005.01A.

96-005.03B The assessment must meet the requirements of 172 NAC 96-005.01.

96-005.04 Documentation of Course Completion: Individuals or entities offering a 40-hour course or the additional 20-hour course for those individuals who, prior to January 1, 2003, had completed a 20-hour course and passed an examination administered by the Department, must provide the medication aide with documentation of successful course completion.

96-005.04A Documentation must include:

1. The name and Social Security Number of the individual who successfully completed the course;
2. The number of hours in the course and whether the course was the 40-hour assisted-living, ICF/MR, or nursing home course, or the additional 20-hour course;
3. The date the course was successfully completed;
4. The name of the person or entity responsible for providing the course and determining successful completion; and
5. The criteria set forth in 172 NAC 96-005.02.

96-006 REVIEW OF ENTITIES CONDUCTING COMPETENCY ASSESSMENTS AND/OR COURSES AND REVIEW OF MEDICATION AIDE ACTIVITIES

96-006.01 In order to ensure compliance with the Act and 172 NAC 96, the Department may:

1. Conduct a review of any entity or person conducting competency assessments and/or a course; and
2. Review the activities of any applicant or medication aide.

96-006.02 Conditions or environmental situations which may trigger a review include, but are not limited to:

1. Receipt of a complaint against a facility or a medication aide;
2. High failure rate on the Department-administered examination for medication aides in an assisted-living facility, ICF/MR, or nursing home;
3. A negative medication outcome by a recipient receiving medication from a medication aide;
4. When there is cause for concern that a facility is not complying with the Act and 172 NAC 96;
5. High rate of medication errors reported or found in a facility; or
6. Information obtained through the facility survey process.

96-006.03 Periodic and random reviews by the Department may be conducted without prior notification.

96-007 REGISTRATION RENEWAL OR REAPPLICATION

96-007.01 Expiration: All medication aide registrations expire two years after the date of

registration. If an individual meets the renewal requirements before the expiration date, his/her registration will be renewed. If an individual fails to renew his/her registration by the expiration date, his/her registration will expire. An individual whose registration has expired may reapply for registration.

96-007.02 Requirements for Registration Renewal or Reapplication: Before his/her registration will be renewed or in order to reapply for registration, an applicant must meet the following requirements:

1. Meet the renewal/reapplication requirements:
 - a. Have completed a competency assessment in accordance with 172 NAC 96-005 during the six months preceding the period for which the requested registration renewal or reapplication will be effective; and
 - b. Pay the non-refundable renewal or reapplication fee.
2. For reapplication:
 - a. Attest:
 - (1) That s/he has not provided services in Nebraska since s/he last held an active registration; or
 - (2) To the actual number of days s/he provided services if the applicant has provided services in Nebraska since s/he last held an active registration.

96-007.03 Procedures

96-007.03A Notice: On or before 90 days prior to expiration of the registration, the Department will send a renewal notice by means of regular mail to each registrant at the registrant's last place of residence as noted in the records of the Department. It is the responsibility of the registrant prior to the renewal period to notify the Department of any name and/or address changes. The renewal notice will specify:

1. The name of the registrant;
2. The registrant's last known address of record;
3. The registration number;
4. The expiration date of the registration; and
5. The renewal or reapplication fee as prescribed in 172 NAC 96-011.

96-007.03B Any registrant who wishes to renew his or her registration or to reapply for registration must submit to the Department:

1. The renewal notice or written application which:
 - a. Is verified by the registrant's/applicant's oath; and
 - b. Contains the following about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the registration was active;
 - (b) Revocations, suspensions, or other disciplinary actions

- against any health care professional credential held by the applicant during the time period since the credential was active;
- (c) Disciplinary charges pending against any health care professional credential held by the applicant;
- (5) Certified copies of all charges, amended charges, pleas, sentencing and probation orders for convictions related to:
- (a) Lewd behavior;
 - (b) Behavior involving minors, except minor in possession (MIP);
 - (c) Taking something belonging to someone else;
 - (d) Physically, verbally, or emotionally threatening, abusing, or neglecting another individual;
 - (e) Obstruction of justice/resisting arrest;
 - (f) Failure to appear or comply with citation;
 - (g) Destruction of property;
 - (h) Trespassing; and
 - (i) Manufacture and/or delivery of controlled substances
- (6) All records, documents or information requested by the Department.
- (7) Documentation of competency in accordance with 172 NAC 96-004.
2. The non-refundable renewal or reapplication fee and any other applicable fees.
3. For reapplication:
- a. A written attestation which states:
 - (1) That s/he has not provided services in Nebraska since s/he last held an active registration; or
 - (2) To the actual number of days s/he provided services if the applicant has provided services in Nebraska since s/he last held an active registration.

96-007.04 The Department may refuse to renew a registration or deny reapplication for a registration for failure to meet the requirements specified in 172 NAC 96-007 or for falsification of any information submitted for renewal or reapplication of registration. Such refusal will be made pursuant to an informal conference as set forth in Neb. Rev. Stat. § 71-6731 and/or hearing in accordance with the Department's Rules of Practice and Procedure.

96-008 GROUND AND PROCEDURES FOR DENIAL, REFUSAL OF RENEWAL OR REAPPLICATION, OR REMOVAL FROM THE REGISTRY

96-008.01 The Department will deny an application for placement on the Registry as a medication aide when the applicant fails to meet the requirements specified in 172 NAC

96-003.

96-008.02 The Department will refuse renewal or reapplication for registration or remove registration if the medication aide fails to meet the requirements specified in 172 NAC 96-003.

96-008.03 The Department may deny, refuse renewal or reapplication for, or remove registration for:

1. Failure to demonstrate competency as identified in 172 NAC 96-005;
2. Failure to produce evidence of competency assessment performed or directed by a licensed health care provider;
3. Conviction of a felony or misdemeanor if it relates to the competency standards in 172 NAC 96-005.01A;
4. Failure to comply with appropriate verbal and written direction given by a recipient with capability and capacity to make informed decision about medications, caretaker or licensed health care professional in the provision of medication;
5. Falsification or failure to report any information on application for registration or renewal; and/or
6. Providing medication aide services without an active medication aide registration.

96-008.04 If the Department denies, refuses renewal or reapplication of, or removes registration other than for non-payment of the renewal or reapplication fee, the applicant or registrant will be notified and given an opportunity for an informal conference as set forth in Neb. Rev. Stat. § 71-6731 and/or hearing in accordance with the Department's Rules of Practice and Procedure.

96-008.05 When a registration as a medication aide has been denied, refused renewal or reapplication, or removed from the Registry, an applicant requesting registration must reapply for such registration as identified in 172 NAC 96-003, but may not reapply until one year has elapsed since the denial/refusal was effective.

96-009 MEDICATION AIDE REGISTRY REQUIREMENTS RELATING TO NURSE LICENSURE

96-009.01 When an individual whose name is on the Medication Aide Registry becomes licensed as a registered nurse or licensed practical nurse, the individual's status on the Medication Aide Registry will become null and void effective the date the professional license is issued.

96-009.02 A medication aide application or renewal will be denied if the individual has had a registered nurse or licensed practical nurse license revoked, suspended, or voluntarily surrendered in lieu of discipline.

96-010 FACILITY OR INDIVIDUAL REQUIREMENT TO REPORT: Any time a facility or individual using the services of a medication aide takes action adversely affecting the medication aide due to alleged incompetence, the facility or individual must make a report to the

Department. The report must be made within 30 days after the action.

96-010.01 Adverse action includes termination of employment, suspension, demotion, or any other type of restriction or action adversely affecting a medication aide.

96-010.02 The report must include:

1. The name, address, and Social Security Number of the medication aide;
2. The date of the alleged incident(s) and date of adverse action;
3. The name of the individual, if applicable, who was the recipient/intended recipient of the medication(s) during the act(s) of the alleged incompetence;
4. A description of the alleged act(s) of incompetence and any supporting documents or records; and
5. Any other related facts known to the facility or person making the report.

96-011 SCHEDULE OF FEES: The following fees have been set by the Department:

96-011.01 Initial Registration, Renewal or Reapplication Fee: An applicant for initial registration, renewal, or reapplication to provide services as a medication aide must pay a fee of \$18. This fee is non-refundable.

96-011.02 Testing Fee: An applicant to test as a medication aide in an assisted living facility, ICF/MR, or nursing home must pay a fee of \$18. This fee is non-refundable.

96-011.03 Certification of Registration Fee: A fee of \$25 must be paid to the Department for issuance of a written certification of a registration. The certification includes information regarding:

1. The basis on which a registration was issued;
2. The date of the issuance;
3. Whether disciplinary action has been taken against the registration; and
4. The current status of the registration.

96-011.04 Verification of Registration Fee: A fee of \$5 must be paid to the Department for issuance of a written verification of a registration. The verification includes written confirmation as to whether a registration was valid at the time the request was made.

96-011.05 Duplicate Registration Fee: A fee of \$10 must be paid to the Department for a duplicate of an original medication aide registration card.

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 97 APPROVAL OF BASIC NURSING PROGRAMS IN NEBRASKA

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 97 APPROVAL OF BASIC NURSING PROGRAMS IN NEBRASKA

97-001 SCOPE AND AUTHORITY: These regulations are intended to set forth the procedure for defining minimum standards established by the Nebraska Board of Nursing for approval of registered and practical programs of nursing in Nebraska pursuant to Neb. Rev. Stat. § 71-1,132.11. Specific purposes of the regulations are to define standards of nursing education to:

1. Assist programs so that graduates of nursing education programs are prepared for safe and effective nursing practice;
2. Serve as a guide for the development of new nursing education programs;
3. Foster the continued improvement of established nursing education programs;
4. Provide criteria for the evaluation of new and established nursing education programs; and
5. Assure eligibility for admission to the licensure examination for nurses, and to facilitate interstate endorsement of graduates of Board-approved nursing education programs.

97-002 DEFINITIONS

Adjunct faculty means persons who are employed by the program, but not on a full time basis, or who are not employed by the program, who supervise/instruct students in a specific area of expertise. Adjunct faculty work under the supervision and guidance of faculty. Adjunct faculty, except for adjunct clinical faculty in a practical nursing program, must meet the educational qualifications of faculty. Adjunct faculty are to supplement and complement the nursing faculty.

Annual report means the document that each nursing program is to submit at the end of each calendar year to maintain on-going program approval and to keep the Board informed of the status of the program's administration and organization, clinical resources, curriculum, faculty and preceptors, program evaluation, students, and student services.

Approved means a program has been approved by the Board of Nursing after it has met the requirements of the law and the requirements of the Nebraska Board of Nursing as set out in this rule.

Assistant director means the registered nurse who is assistant to the director in administration of the educational program in nursing regardless of the official title in any specific institution. The Assistant Director has the administrative responsibility for a specific program or site and must meet the same qualifications as those specified in these regulations for the Director.

Basic program in nursing education means an educational program approved by the Nebraska Board of Nursing which prepares the registered or practical nursing graduate to qualify for the license of registered nurse or licensed practical nurse upon passing the required licensing examination, and meeting other licensure requirements.

Board means the Nebraska Board of Nursing.

Controlling institution means an established organization or institution which applies for approval and actually administers and controls the program of registered or practical nursing in its entirety after approval is received from the Board.

Cooperating agency means an established organization that cooperates with the controlling institution by providing learning experiences for the program of registered or practical nursing, with instruction and supervision being provided from the faculty of the controlling institution.

Course means an instructional unit of the curriculum.

Curriculum means the total learning experiences of the program organized in a systematic manner.

Department means the Department of Health and Human Services Regulation and Licensure. These rules and regulations must be approved by the Department.

Diploma, degree or certificate means the formal document showing that the student has completed the prescribed program.

Director means the registered nurse administratively in charge of the educational program in nursing regardless of the official title in any specific institution.

Faculty means the persons employed by the program in nursing who are responsible for administration, curriculum, instruction, guidance, and research.

Governing body means the body of the controlling institution that sets the policies for the institution.

Observational experience means an assignment to a facility or unit where students observe the role of the facility and the role of nursing within the facility, but where students do not participate in direct patient/client care. Direct faculty or preceptor supervision is not required for an observational experience outside the clinical facility. Observational experiences may be used to supplement, but not replace direct patient care experiences.

Preceptor means an experienced registered nurse who provides direct supervision of student clinical learning experiences at the clinical agency where the preceptor is employed. The preceptor acts as a facilitator of student learning and serves as a role model who is immediately available in the clinical setting. Preceptors are employed by the agency where the student is placed for clinical experience.

Program means the educational unit which prepared persons for licensure as registered or licensed practical nurses.

Purpose means a statement which identifies the reason for the existence of the program.

Recommendation(s) means advice of what must be done to ensure that the entire program or program components have met the requirements of the law and the requirements of the Board as set out in this rule. All recommendations must be considered and implemented by the program and the program must keep the Board informed of the implementation of the recommendation(s).

Regulations or requirements means the minimum standards of the Board which a program must meet in order to be approved.

Satellite program means the provision of an approved nursing program or a major component thereof, geographically apart from a campus.

Suggestion(s) means proposals for the program to consider that may enhance the program or program components. Suggestions are to be considered by the program, but may be accepted and implemented, modified and implemented, or rejected and not implemented. No follow-up communication with the Board is required.

Support course means a non-nursing course in the areas of the biological and physical sciences and behavioral sciences, the content of which is essential to the application of nursing knowledge.

97-003 CLASSIFICATION OF BASIC PROGRAMS IN NURSING EDUCATION: The types of basic programs are:

1. The baccalaureate degree program, which is conducted by a university or college and leads to a baccalaureate degree in nursing;
2. The diploma program, which is conducted by a general acute-care hospital accredited by the Joint Commission on the Accreditation of Healthcare Organizations and leads to a diploma in nursing;
3. The associate degree program, which is conducted by a community college, college or university and leads to an associate degree in nursing; and
4. The practical program, which is an educational program of at least one academic year conducted by a community college or educational agency that is accredited by

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an accrediting body that is recognized as an accrediting body by the United States Secretary of Education.

97-004 ACCREDITATION OF CONTROLLING INSTITUTION

97-004.01 A university or college offering an associate degree and/or basic baccalaureate degree program in nursing must be accredited by an accrediting body that is recognized as an accrediting body by the United States Secretary of Education.

97-004.02 A hospital which offers a diploma program in nursing must be general acute-care in type, licensed by the Department, and accredited by the Joint Commission on Accreditation of Healthcare Organizations.

97-004.03 Community colleges and other educational agencies offering a program in practical nursing or associate degree registered nursing must be accredited by an accrediting body that is recognized as an accrediting body by the United States Secretary of Education.

97-005 ADMINISTRATION AND ORGANIZATION: The administrative control for the program must be vested in the governing body of the controlling institution. The governing body of the controlling institution must:

1. Provide an organizational chart showing the relationship of the nursing program to the controlling institution, to other departments, institutions, and agencies and the channels of authority and communication;
2. Provide an organizational chart showing relationships of individuals or groups within the nursing program;
3. Appoint a qualified person to administer the nursing program(s) as set forth in 172 NAC 97-007;
4. Provide for an adequate number of qualified faculty as set forth in 172 NAC 97-007;
5. Provide for adequate educational facilities and clinical resources as set forth in 172 NAC 97-010 and 011;
6. Provide for written agreements with all cooperating agencies that delineate the methods of communication and areas of responsibilities of each party;
7. Provide for a financial base that is sufficient to ensure adequate financial resources to maintain a qualified faculty and adequate facilities including classrooms and laboratories to be able to provide students with adequate education from admission to completion;
8. Provide in writing the conditions of employment and the policies for faculty; and

9. Provide in writing the educational philosophy of the controlling institution.

97-006 PHILOSOPHY, OBJECTIVES/OUTCOMES: The program must have in writing a clearly defined statement of philosophy, organizing framework and program objectives/outcomes which serve as a basis for the development of the total nursing education program.

97-006.01 The statement of philosophy must include the beliefs of the faculty about:

1. Human being,
2. Nursing,
3. Education,
4. Nursing education, and
5. Health, and

must be in accord with those of the controlling institution.

97-006.02 The organizing framework must reflect the concepts or theories that serve as the foundation of the curriculum.

97-006.03 Program objectives/outcomes of the program must reflect the stated philosophy and must be based on the concept of preparing a practitioner who gives safe and competent care and who functions within the legally defined scope of practice of the registered or licensed practical nurse.

97-006.04 The program objectives/outcomes must be measurable and attainable within the timeframe of the program of instruction.

97-006.045 The philosophy, program objectives, and outcomes must be defined and approved by the faculty and shared with the students.

97-007 FACULTY

97-007.01 The Director of the nursing education program must be a registered nurse, currently licensed in this state, with the additional education and experience necessary to direct the program preparing graduates for the safe and effective practice of nursing. The Director is accountable for the administration, planning, implementation and evaluation of the nursing education program.

97-007.01A Any person appointed Director after the effective date of these regulations must have:

1. In a program preparing for practical nurse licensure:
 - a. A minimum of a graduate degree in nursing;
 - b. Three years of clinical experience; and

- c. Three years of education experience.
2. In a program preparing for registered nurse licensure:
 - a. A minimum of a graduate degree in nursing;
 - b. Three years of clinical experience; and
 - c. Three years of education experience.

97-007.02 There must be sufficient faculty with educational preparation and nursing expertise to meet the objectives and purposes of the nursing education program. Factors which determine the number and qualifications of faculty include the type and length of program, number of students enrolled, number of students assigned to a clinical area, frequency of admissions, total responsibilities of the faculty, and number and location of clinical facilities.

97-007.02A There must be a sufficient core of full-time faculty to assure consistent presentation of the curriculum, consistent application of policies, and consistent supervision of the clinical experiences.

97.007.02B There must be no more than ten students per faculty member (a 1:10 faculty-to-student ratio) in the clinical area. The clinical facility may require a lower number of students per faculty. A 1:8 faculty-to-student ratio is preferred.

97-007.03 There must be written position descriptions of all faculty members, their qualifications, and their responsibility in the educational program.

97-007.03A Qualifications

1. Nursing faculty who teach in a program leading to licensure as a Practical Nurse must:
 - a. Be currently licensed as a registered nurse in this state;
 - b. Have a minimum of a baccalaureate or higher degree in nursing. Faculty appointed after the effective date of these regulations, except for adjunct clinical faculty, must have a minimum of a graduate degree in nursing or be making annual progress toward a graduate degree in nursing and complete it within six years of employment; and
 - c. Have one year of clinical experience relevant to areas of responsibility.
2. Nursing faculty who teach in programs leading to licensure as a registered nurse must:
 - a. Be currently licensed as a registered nurse in this state;

- b. Have a minimum of a graduate degree in nursing or make annual progress toward a graduate degree in nursing. There must be a graduate degree in nursing-prepared registered nurse instructor giving direct instruction in each of the primary curriculum areas of Medical-Surgical Nursing, Psychiatric-Mental Health Nursing, and Maternal-Child Nursing. Baccalaureate programs must also have a graduate degree in nursing-prepared registered nurse instructor giving direct instruction in Community Health Nursing. There must be a minimum of three graduate degree in nursing-prepared registered nurse instructors in each program (four for baccalaureate programs). Each registered nurse faculty must complete the required graduate degree within six years of being appointed to the faculty;
 - c. Have one year of clinical experience relevant to areas of responsibility;
 - d. For faculty who instruct in the clinical area, have a minimum of one year of clinical experience in that clinical specialty; and
 - e. For faculty assigned to teach in the clinical area, be academically and clinically prepared in that clinical specialty.
3. Non-nurse faculty members teaching in a nursing program must have or be working toward a minimum of a master's degree in their field of teaching or function.
 4. If for any temporary emergency reason a program employs a faculty member on a temporary basis who does not meet the requirements, the program must request a waiver of faculty qualifications for that specific situation. The waiver request must include the reason for the request, the time frame for the request, and what steps were taken to prevent the need for the waiver.
 - a. The Board will consider the waiver request at its next regularly scheduled meeting and either approve or disapprove the request.

97-007.04 The principal responsibilities and functions of the Director and faculty are to:

1. Develop, implement, evaluate, and update the purpose, philosophy, organizational framework and program objectives/outcomes;
2. Design, implement and evaluate the curriculum using a written plan;
3. Develop, evaluate, and revise student admission, progression, retention, and graduation policies within the policies of the institution;
4. Participate in academic advising and guidance of students;

5. Provide theoretical instruction and clinical or practicum experiences;
6. Supervise the instruction provided by preceptors;
7. Assure that observational experiences comprise no more than 20% of the clinical experiences of any course;
8. Evaluate student achievement of curricular objectives/outcomes related to nursing knowledge and practice;
9. Provide for student evaluation of teaching effectiveness;
10. Provide an orientation for new faculty; and
11. Participate in activities which facilitate maintaining the faculty members' own nursing competence and professional expertise in the area of teaching responsibility and maintaining clinical competence through clinical experience, workshops, and in-service education.

97-007.05 Faculty policies and procedures must be available in writing and must include qualifications, rights and responsibilities of faculty members, the criteria for evaluation of performance, and promotion and tenure policies.

97-007.06 Written records of faculty decisions and committee reports must be maintained and available to all faculty.

97-007.07 The program must have clerical staff and other resources sufficient to meet the needs of the faculty and administration.

97-008 PRECEPTORS: The program may use preceptors in direct supervision of student learning experiences in the clinical agency where the preceptor is employed. These guidelines apply when a faculty member has delegated responsibility for direct supervision of student clinical learning experiences to a preceptor (at the preceptor's employing agency), and when the faculty member may not be physically present within the clinical agency or clinical setting.

97-008.01 Preceptor supervision is not appropriate for the beginning student. Clinical preceptors may be used to enhance clinical learning experiences, after a student has received clinical and didactic instruction in all basic areas of nursing or within a course after students have received clinical and didactic instruction in all basic areas for that course or specific learning experience.

97-008.02 While learning with the preceptor, the student role expectations must not exceed the level of practice for which the student is being prepared.

97-008.03 Direct supervision by a preceptor means that the preceptor is present in the clinical setting and available to the student at all times.

97-008.04 Preceptors may be responsible for no more than one student at a time.

97-008.05 Qualifications for a clinical preceptor include:

1. Completion of an approved registered nursing education program with a BSN preferred;
2. At least 24 months in the practice of registered nursing and either current specialty certification or demonstrated expertise in the area of practice related to the responsibilities of the appointed position;
3. Current, active, unencumbered license as a registered nurse in Nebraska or in the jurisdiction where practice occurs;
4. Competence as a clinician with an ability to apply nursing theory to practice;
5. Effective communication with clients, students, peers and other members of the health care team; and
6. Interest and ability to facilitate learning by students and staff.

97-008.06 Preceptor Orientation: The faculty must clarify with the preceptor:

1. An overview of the roles and responsibilities of preceptors, faculty and students within the course;
2. Specific preceptor responsibilities;
3. Methods of clinical evaluation of students by faculty and preceptors;
4. Goals and objectives for the clinical experience; and
5. Process of resolution of potential/actual problems.

97-008.07 The functions and responsibilities of the preceptor must be clearly delineated in a written agreement between the clinical agency, the preceptor and the nursing education program. The responsibilities of preceptors are two-fold:

1. To facilitate the student's learning within the agency by:
 - a. Assessing and suggesting learning experiences available to the student within course objectives/outcomes;
 - b. Selecting client care assignments and arranging other learning experiences within course objectives; and
 - c. Directly assisting student learning experiences when needed; and
2. To assist faculty with the evaluation of student performance in the clinical area by:
 - a. Identifying areas where the student may need additional assistance from faculty;

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- b. Providing periodic feedback about the student's clinical performance; and
- c. Discussing questions and problems with faculty that may arise with the student during the preceptor experience.

97-008.08 The faculty member must retain responsibility for the student's learning experiences. The responsibilities of the faculty regarding preceptors include:

- 1. Orienting the preceptor to the overall course purposes and objectives of the nursing education program;
- 2. Clarifying any questions about the course, the level, or the curriculum;
- 3. Facilitating, monitoring and evaluating the student's learning through periodic conferences with the student and preceptor;
- 4. Assisting the student with application of core content in clinical experiences;
- 5. Serving as a resource person for the student and preceptor; and
- 6. Providing appropriate orientation materials, forms, and evaluation tools to the preceptor.

97-008.09 The responsibility for student learning rests with the faculty member, preceptor and student.

97-008.09A The faculty member primarily coordinates the learning experience of the student, provides direction for the preceptor and student, and evaluates the student's achievement of the course objectives.

97-008.09B The preceptor retains his/her nursing staff responsibility for client care while considering the individual student's capabilities in making assignments.

97-008.09C The student must be directed to accept only those responsibilities which the preceptor believes can be safely managed. Students are expected to maintain practice within the safe limits which have previously been taught. Recognizing their own strengths and limitations, students are required to request help and supervision as needed.

97-009 CURRICULUM: The program must have a curriculum that enables the student to develop the nursing knowledge, skills and competencies necessary for the level of licensure.

97-009.01 The stated philosophy and objectives/outcomes of the nursing program must be used to develop, organize, implement, and evaluate the curriculum.

97-009.02 An organized pattern, developed by the nurse faculty for the continuity and sequence of courses and related concurrent clinical instruction must provide for progression of knowledge, skills, abilities, and attitudes of the nursing students.

97-009.03 Instruction must be provided in the following areas with the courses in the biological, physical, social and behavioral sciences providing a foundation for safe and effective nursing practice:

97-009.03A Biological and Physical Sciences: Content from these sciences must include Anatomy and Physiology, Chemistry, Microbiology, Nutrition, and Pharmacology. Courses may be developed separately or as integral parts of other courses.

97-009.03B Social and Behavioral Sciences: Content from these sciences must include Sociology, Psychology, Growth and Development, and Communication Skills. Courses may be developed separately or as integral parts of other courses.

97-009.03C Nursing: Didactic content and supervised clinical experience in the prevention of illness and promotion, restoration, and maintenance of health in patients/clients across the life span and in a variety of clinical settings, to include:

1. Using informatics to communicate, manage knowledge, mitigate error, and support decision making;
2. Employing evidence-based practice to integrate best research with clinical expertise and client values for optimal care, including skills to identify and apply best practices to nursing care;
3. Providing client-centered, culturally competent care by:
 - a. Respecting client differences, values, preferences and expressed needs;
 - b. Involving clients in decision-making and care management;
 - c. Coordinating and managing continuous client care; and
 - d. Promoting healthy lifestyles for clients and populations;
4. Working in interdisciplinary teams to cooperate, collaborate, communicate, and integrate client care and health promotion; and
5. Participating in quality improvement processes to measure client outcomes, identify hazards and errors, and develop changes in processes of client care.

97-009.04 In addition, the curriculum must include:

1. Content regarding legal and ethical issues, history and trends in nursing, professional responsibilities, and scope of nursing practice;
2. Experiences which promote the development of leadership and management skills and professional socialization consistent with the level of licensure;
3. Learning experiences, methods of instruction, and evaluation of student accomplishment consistent with the written curriculum plan; and
4. Delivery of instruction by distance education methods must be consistent with the program curriculum plan and enable students to

meet the goals, competencies and objectives of the educational program and standards of the Board.

97-009.05 The curriculum must provide for learning experiences that prepare the student to identify and intervene in actual or potential health problems of individuals, families, or groups, which actions are directed toward maintaining health status, preventing illness, injury, or infirmity, improving health status, and providing care supportive to or restorative of life and well-being through nursing assessment and through the execution of nursing care and of diagnostic or therapeutic regimens prescribed by any person lawfully authorized to prescribe. The curriculum must:

1. Be planned, implemented and evaluated by the faculty with provisions for student input;
2. Reflect the organizing framework and objectives of the nursing education program;
3. Be organized logically and sequenced appropriately;
4. Provide supervised clinical experience to prepare the student for the safe practice of nursing;
5. Be comprised of sufficient hours to meet these standards, be supervised by educationally and clinically qualified faculty, and ensure students' ability to practice at an entry level; and
6. In addition to clinical experience provided under direct faculty supervision, experiences may include student observation or experience supervised by adjunct faculty or preceptors.

97-009.06 Current syllabi must be available at the educational institution.

97-009.07 Programs permitting students to challenge selected courses for credit must have written policies governing the challenge procedure.

97-009.08 Nursing electives must be approved in the same manner as all other nursing courses.

97-009.09 Curriculum Revisions

97-009.09A Consultation from the Board is available when curriculum revisions are being considered. Plans for major curriculum revisions must be submitted to the Board for approval three months before they are implemented. Major curriculum changes include:

1. Major changes in program objectives/outcomes which alter the present curriculum;
2. Changes in the length of the program;
3. Changes in the number of hours of didactic instruction or clinical instruction;
4. Reorganization of the entire curriculum;
5. Additions, deletions, and substitutions of support courses; and
6. Additions, deletions, and substitutions of nursing elective courses.

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97-009.09B A request for curriculum change must include the rationale and indicate the present plan as well as the proposed change and expected outcome.

97-010 CLINICAL RESOURCES: There must be clinical resources available and adequate for the number of students and faculty and the objectives/outcomes of the program.

97-010.01 Clinical Facilities: Clinical facilities must be available with a sufficient number and variety of clients to provide learning experiences essential to achievement of the stated objectives of the curriculum and for the number of students enrolled.

97-010.02 Approval: The program must identify on the annual report all clinical facilities utilized by the program.

97-011 EDUCATIONAL FACILITIES: Adequate classrooms, offices, laboratories, conference rooms, and a library to meet the objectives of the program and to provide the needs of the students and faculty must be available.

97-012 STUDENTS: Students must be provided the opportunity to acquire and demonstrate the knowledge, skills and abilities for safe and effective nursing practice.

97-012.01 All policies relevant to applicants and students must be available in writing.

97-012.02 Written policies must be developed by faculty for selection, admission, readmission, progression, graduation, transfer, dismissal and/or withdrawal of nursing students.

97-012.03 Student responsibilities and due process rights must be available in writing.

97-012.04 Requirements for graduation must be stated in the program brochure/catalog.

97-012.05 The date of completion of the nursing program must be specified on the transcript.

97-012.06 Students must be required to meet the health standards and criminal background checks as required by the clinical agencies and the nursing program.

97-012.07 Students must be accountable for the integrity of their work.

97-013 STUDENT SERVICES: Policies for student services must be available in writing.

97-014 RECORDS: The controlling institution must maintain a record system with provision for the protection of records against loss, destruction, and unauthorized use.

97-014.01 Student records must be available to the faculty.

97-014.02 No part of the student's record may be released without the written consent of the student.

97-014.03 Official records must be maintained for current students enrolled, including admission data, transcripts, and evaluations.

97-014.04 Transcripts for students who have withdrawn or graduated must be kept on file.

97-014.05 Records for transfer students, at the time of admission into a nursing program, must include a transcript of the previous nursing or college program and a written program of studies required to be completed by the transfer student prior to graduation.

97-014.06 Faculty records demonstrating educational and experiential qualifications must be maintained, including official educational transcripts.

97-014.07 General program records, contracts, minutes of faculty and committee meetings, reports to the administration, nursing program budgets, curriculum plan, current course syllabi, and program brochure/catalog must be maintained.

97-015 REPORTS TO THE BOARD

97-015.01 An annual report and other reports as requested must be submitted to the Board.

97-015.02 The Board must be notified in writing of administrative changes relating to and affecting the program.

97-015.03 The program must cooperate in submitting data to the Board for purposes of research and/or planning activities.

97-016 BROCHURE/CATALOG: The program brochure/catalog must be current and give an accurate description of the program.

97-017 EVALUATION: The faculty must develop a systematic evaluation plan for the total program and provide for periodic evaluation of all aspects of the program including: Philosophy and Objectives/Outcomes, Organization and Administration, Faculty, Curriculum, Students, Facilities, Follow-Up Study of Graduates, Records, and Reports, and demonstrate how the evaluation data are used for program improvement.

97-018 SURVEY VISITS TO NURSING PROGRAMS: The Board of Nursing will conduct survey visits to each of the nursing programs to verify compliance with all of the preceding regulations.

97-018.01 Those survey visits will occur at the time of submission of RN-1 or PN-1 and four years after the date the first graduating class was admitted to the program.

97-018.02 The frequency of subsequent surveys will be based on an annual evaluation of the following criteria:

1. The stability of the nursing administrative structure and personnel;
2. The stability/retention of the faculty;
3. The program voluntarily maintaining accreditation with the National League for Nursing Accrediting Commission (NLNAC) or the Commission on Collegiate Nursing Education (CCNE);
4. The annual reports for the last four years; and,
5. The graduates from the program having demonstrated a pass rate on the NCLEX examination each year for the last four years that meets or exceeds the national pass rate.

97-018.03 The Board may direct that a survey visit be conducted more frequently than every four years if it determines that one is indicated based on, but not limited to, the following:

1. Frequent nursing department administrative changes and/or faculty turnover;
2. Complaints received from faculty, students, parents, and/or the general public;
3. A pass rate of the graduates lower than the national pass rate for two consecutive years; or
4. Student retention and attrition.

97-018.04 Staff for the Board of Nursing will make arrangements with the program to establish a date for the survey to occur sometime during the academic year that it is due.

97-019 PROCEDURES FOR APPROVING PROGRAMS (INCLUDING SATELLITE PROGRAMS): The application to conduct a program in registered or practical nursing must meet the following requirements and be made on forms provided by the Department, copies of which are attached as RN-1 and RN-2 and PN-1 and PN-2 and incorporated into these regulations by this reference. Only applications which are complete will be considered.

97-019.01 The applying institution must employ a Director at least 12 months prior to the anticipated opening of the program or at least six months prior to the anticipated opening of a satellite program.

97-019.02 At least one qualified faculty member for each course must be employed six months prior to the beginning of a course for the purpose of course development. If a developed course is going to be taught in the satellite program, qualified faculty must be

employed two months prior to the beginning of the course for purposes of program and site orientation.

97-019.03 Form RN-1 or PN-1: This portion of the application must be submitted by the applying institution at least one year prior to the anticipated opening of the new program or six months prior to the opening of a satellite program/campus.

97-019.03A Form RN-1 or PN-1 must be signed by the head of the governing body of the controlling institution making the application.

97-019.03A1 If the controlling institution is a private organization, a copy of its articles of incorporation and of the resolution of its governing body authorizing it to establish a program of registered or practical nursing must be attached.

97-019.03A2 If the controlling institution is a public body, a copy of its statutory authority to establish a program of registered or practical nursing must be attached, along with a copy of the resolution of its governing body authorizing it to establish a program of registered or practical nursing.

97-019.03B Form RN-1 or PN-1 of the application must include the following information with supporting documents:

1. A description of the need that has been identified for establishing a program;
2. A description of the classification of the proposed program;
3. A description of the readiness that has been identified of the community to support the proposed program;
4. A description of the financial resources for the program;
5. A description of the educational philosophy of the controlling institution;
6. A description of the accreditation status of the controlling institution;
7. Specification of the source of authority of the controlling institution to offer a basic educational program in registered or practical nursing and to grant the degree, diploma or certificate;
8. A description of the availability of qualified faculty;
9. A description of the availability of qualified applicants for selection of students;
10. A description of the provision for educational facilities including classroom, laboratories, library, conference rooms, and offices;
11. A description of the provision for clinical resources;
12. A description of the general education and nursing content of the curriculum including proposed course descriptions; and
13. A description of the tentative time table for planning and initiating the program.

97-019.03C Approval of RN-1 or PN-1: Upon receipt of the above application, the Board will review the information and direct a survey of the controlling institution for verification of the data contained in the RN-1 or PN-1 portion of the application. Within 90 days of receiving this portion of the application, the Board will evaluate the

feasibility for initiating the program and make written recommendations to the applying institution. Consultation with the Board will be available to the governing body of the program and controlling institution.

97-019.04 Form RN-2 or PN-2: This part of the application must be submitted to the Board by the Director and the initiating controlling institution at least six months prior to the anticipated beginning of teaching the courses, to allow the Board time to evaluate the application.

97-019.04A The RN-2 or PN-2 must include the following information with supporting documents:

1. A tentative time plan for the program;
2. The philosophy and objectives of the program;
3. A budget plan;
4. The provision for qualified faculty as set forth in 172 NAC 97-007;
5. An organization chart showing institution control, administration, relationships, and lines of authority;
6. Course outlines for the first year of the nursing content and course descriptions for the remainder of the program. Course syllabi must include course descriptions, course objectives, course content outline and methods of student evaluation, and relationship of learning activities to proposed course objectives;
7. A listing of the clinical resources that will be used, copies of agreements with the cooperating agencies, and a Clinical Facility Statistical Report, which is included in the RN-1 or PN-1 application;
8. A recruitment plan and admission requirements that will be used to select students; and
9. Position descriptions for faculty that outline responsibilities and functions.

97-019.04B Approval of RN-2 or PN-2: The Board will review the total application. Within 60 days after Form RN-2 or PN-2 of the application has been submitted to the Board, the Board will notify the applicant by registered or certified mail either that it has been approved or that it has been denied.

97-019.04B1 Initial Approval: When approved for admission of students, the educational program will be granted initial approval beginning with the date of enrollment of the first class. Progress reports must be made by the Director as requested by the Board. Consultation of the Board will be available.

97-019.04B2 Continuing Approval: Approval is continued for those programs which continue to meet the requirements of the Board as determined by survey visits, annual reports, and such reports as may be required by the Board. Approval may be continued with or without Board recommendations and/or suggestions.

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97-019.04B2a Nursing education programs will be reevaluated every four years with a site visit, or upon request of the nursing education program, or at the discretion of the Board, to ensure continuing compliance with the regulations.

97-019.04B2b Programs must submit an annual report.

97-020 SUSPENSION OR REVOCATION OF APPROVAL: Once a program of registered or practical nursing has been approved, such approval will not be suspended or revoked except as provided hereafter. (Neb. Rev. Stat. § 71-1,132.28)

97-020.01 If the Board determines that any controlling institution having a program in registered or practical nursing approved by the Board is not maintaining the standards required by the statutes and by these rules and regulations, the controlling institution will be warned. Notice thereof will be given in writing to the controlling institution immediately, specifying the deficiency(ies).

97-020.01A Such notice will be given by either registered or certified mail.

97-020.01B The specific deficiency(ies) will be set out in the warning.

97-020.01C The controlling institution will be given 12 months in which to correct the deficiency(ies) in its program.

97-020.02 At the conclusion of 12 months, if the requirements for approval have not been met, the controlling institution will be given six months notice of possible withdrawal of approval.

97-020.03 Six months after the controlling institution has been given notice of possible withdrawal of approval, if the deficiency(ies) have not been corrected, the Department will fix a time and place for a hearing to determine whether the approval from the Board will be suspended or revoked.

97-020.03A A copy of the charges alleging a specific deficiency(ies), together with a notice of the time and place fixed for the hearing, will be served on the Director of the program and the controlling institution by personal service or registered or certified mail at least ten days prior to said hearing.

97-020.03B The hearing will be conducted in accordance with the rules of practice and procedure before the Department.

97-021 TRANSFERRING A PROGRAM: In the event that the transfer of the controlling institutional ownership or control of a program in registered or practical nursing is to take place, the new ownership or new controlling institution must comply with the same requirements as for the establishment of a new program.

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97-022 CLOSING A PROGRAM

97-022.01 A controlling institution terminating its program must notify the Board at least one year in advance of such intended termination, and must submit to the Board the plan for completion of students currently enrolled and the disposition of records. All Board requirements for approval must be maintained until the program is closed.

97-022.02 The program must be officially closed on the date the last nursing student completes the program or is transferred to another approved program under the plan for termination of the program or voluntarily withdraws from the program. The controlling institution which has operated the program is responsible for the permanent preservation of records and issuance of transcripts of graduates, and must notify the Board of the custody of the records.

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NEBRASKA DEPARTMENT OF
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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 98 ADVANCED PRACTICE REGISTERED NURSE LICENSURE

98-001 SCOPE AND AUTHORITY: These regulations govern the licensure of advanced practice registered nurses in the State of Nebraska. Statutory authority for these regulations is in the Advanced Practice Registered Nurse Licensure Act, the Nurse Licensure Compact, and the Uniform Licensing Law.

98-002 DEFINITIONS

APRN (Advanced Practice Registered Nurse) means a registered nurse who holds a current APRN license as a Certified Nurse Midwife, Certified Registered Nurse Anesthetist, Clinical Nurse Specialist, or Nurse Practitioner.

APRN-CNM means a registered nurse who holds a current APRN license as a Certified Nurse Midwife.

APRN-CNS means a registered nurse who holds a current APRN license as a Clinical Nurse Specialist.

APRN-CRNA means a registered nurse who holds a current APRN license as a Certified Registered Nurse Anesthetist.

APRN-NP means a registered nurse who holds a current APRN license as a Nurse Practitioner.

Board means the Board of Advanced Practice Registered Nurses.

Department means the Division of Public Health in the Department of Health and Human Services.

Expired license means a license whose expiration date has passed.

Inactive license means a license which the license holder has voluntarily placed on inactive status. An individual with an inactive license has terminated the right to practice or represent himself or herself as having an active license.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

98-003 SCHEDULE OF FEES

98-003.01 The following fees must be paid as a condition of issuance of licensure.

1. Initial License Fee: By an applicant for a license to practice as an APRN-CNM, APRN-CNS, APRN-CRNA, or APRN-NP, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1 for each year remaining in the current biennial renewal period.

a. Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

2. License Renewal Fee: By an applicant for renewal of a license to practice as an APRN-CNM, APRN-CNS, APRN-CRNA, or APRN-NP, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$2.

3. Fee for Reinstatement from Expired or Inactive Status: By an applicant for reinstatement from expired or inactive status of a license to practice as an APRN-CNM, APRN-CNS, APRN-CRNA, or APRN-NP, the fee of \$35 in addition to the renewal fee.

4. Fee for Reinstatement Following Discipline: For reinstatement following suspension or revocation for disciplinary reasons, the fee of \$75.

5. Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:

- a. The basis on which the license was issued;
- b. The date of issuance;
- c. Whether disciplinary action has been taken against the license; and
- d. The current status of the license.

6. Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether the license was valid at the time the request was made.

7. Duplicate License Fee: For a duplicate of an original license document or reissued license, a fee of \$10.

8. Administrative Fee: For a denied license or a withdrawn application, an administrative fee of \$25 will be retained by the Department.

98-004 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practiced without a license. Practice without a license for the purpose of this regulation means practice:

1. Prior to the issuance of a license;
2. Following the expiration of a license; or
3. Prior to the reinstatement of a license.

98-004.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaging in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a practice site and announces or advertises that the site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact is presumed to be true unless disproved by some evidence to the contrary.

98-004.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000, for practice without a license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or

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sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.

2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

98-004.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the state Administrative Procedure Act and the Department's Rules of Practice and Procedure.

98-005 LAPSE OF APRN LICENSE: An APRN's license will lapse if s/he does not renew his or her license to practice as a registered nurse or is not authorized to practice as a registered nurse in this state under the Nurse Licensure Compact.

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REGULATION AND LICENSURE

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TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 99

PROVISION OF NURSING CARE

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 99 PROVISION OF NURSING CARE

99-001 SCOPE AND AUTHORITY: These regulations govern the provision, administration, and management of nursing care by licensed nurses and by unlicensed persons providing auxiliary services in support of nursing service. Licensed nurses provide nursing care through a variety of roles including: a) the direct provision of care, b) the indirect provision of care through administering, managing, and supervising the practice of nursing, c) the teaching of health care practice to individuals, families, and groups, and d) collaboration and consultation with other health professionals in the management of health care. Licensed nurses provide nursing care through acute practice, long-term care practice, and community based practice. Licensed nurses are directly accountable and responsible to clients/patients for the nature and quality of all nursing care rendered.

Registered nurses (RNs) practice nursing independently and inter-dependently through the application of the nursing process; registered nurses also practice nursing dependently through the execution of diagnostic or therapeutic regimens prescribed by licensed practitioners. The administration and management of nursing by RNs is an independent and interdependent practice and includes delegating, directing, and assigning nursing interventions that may be performed by others.

Licensed practical nurses (LPNs) practice nursing dependently at the direction of registered nurses or licensed practitioners through the application of the nursing process and the execution of diagnostic or therapeutic regimens prescribed by licensed practitioners. LPN practice includes the assumption of responsibilities and accountabilities for the performance of acts within their educational background and utilizing procedures leading to predictable outcomes. The administration and management of nursing by LPNs includes directing and assigning nursing interventions that may be performed by others.

These regulations do not apply to a) persons who perform self-care; b) family, foster parents, or friends who provide home care; and c) persons performing health maintenance activities in accordance with Neb. Rev. Stat. § 71-1,132.30. These regulations also do not apply to the provision of activities of daily living and personal care by unlicensed persons when such cares do not rise to the level of requiring the application of nursing judgment or skill based upon a systematized body of nursing knowledge. These regulations do not alter the minimum requirements for nursing assistants as set forth in the Nebraska Nursing Home Act, for home health aides as set forth in Neb. Rev. Stat. §§ 71-6601 to 71-6615, and for medication aides as set forth in the Medication Aide Act, Neb. Rev. Stat. §§ 71-6718 to 71-6742.

99-002 DEFINITIONS: For the purposes of these regulations, the following definitions apply:

Accountability means being responsible and answerable.

1. Licensed nurse accountability means being responsible and answerable for decisions and for the action or inaction of self and/or others, and for the resultant client/patient outcomes related to decisions and action/inaction.
2. Unlicensed person accountability means being responsible and answerable for the action or inaction of self.

Act means Neb. Rev. Stat. §§ 71-1,132.04 to 71-1,143.53, known as the Nurse Practice Act.

Activities of daily living (ADLs) means transfer/ambulation, exercising, toileting, feeding, and similar activities.

Assessment means a systematic evaluation of the client/patient's condition and response to the therapy.

Assignment means a licensed nurse appoints or designates another person the responsibility for performance of nursing interventions. Assignment IS NOT the transfer of authority; assignments are made to individuals who already have authority to provide nursing interventions either through licensors as a nurse or through delegation from the RN.

Assist means to give aid and support in the performance of an activity.

Authority means legal authority to provide nursing care granted through licensure as a registered nurse, licensure as a practical nurse, or through delegation from the RN.

Auxiliary patient care services means care provided by persons authorized, assigned, or directed by licensed nurses or licensed practitioners in support of that professional's practice.

Competence means the state or quality of being capable as a result of having the required knowledge, skills, and ability.

1. Licensed nurse competence means the ability of the nurse to apply interpersonal, technical and decision-making skills at the level of knowledge consistent with the prevailing standard for the nurse's current nursing practice role.
2. Unlicensed person competence means the ability of the unlicensed person: 1) to utilize effective communication, 2) to collect basic objective and subjective data, 3) to perform selected non-complex nursing interventions safely, accurately, and according to standard procedures, and 4) to seek guidance and direction when appropriate.

Counseling means the process of helping a client/patient to recognize and cope with stressful psychologic or social problems, to develop improved interpersonal relationships, and to promote personal growth. Counseling includes analysis of a situation, synthesis of information and experiences, and evaluation of the progress and productivity of client(s)/patient(s).

Delegation means the transference from one individual to another individual the authority, responsibility, and accountability to perform nursing interventions.

1. Delegated by a Registered Nurse means the transference from an RN to an unlicensed person the authority, responsibility, and accountability to provide selected non-complex nursing interventions on behalf of the RN.
2. Delegation decision includes determining which nursing intervention(s) may be delegated, selecting which unlicensed person(s) may provide the delegated interventions, determining the degree of detail and method to be used to communicate the delegation plan, and selecting a method of evaluation and supervision.

Direction means the provision of guidance and supervision by a licensed nurse or licensed practitioner who is responsible to manage the provision of nursing interventions by another person.

Employer guidelines include standards of care, job descriptions/role delineations and/or organizational policies and procedures.

Licensed Nurse means a person licensed as a registered nurse or as a practical nurse under the provisions of the Act.

Licensed Health Care Professional means an individual who holds an active license to practice a defined scope of practice.

Licensed Practitioner means a person lawfully authorized to prescribe medications or treatments.

Monitor rate of flow means to verify and report the rate of flow of an intravenous fluid when the rate has been previously established.

Nursing intervention means the initiation and completion of client/patient focused actions necessary to accomplish the goals defined in the plan of care. Examples include health maintenance activities, health promotion activities, client/patient teaching, counseling, referral, and implementation of diagnostic or therapeutic regimens of licensed practitioners.

1. Complex interventions means those which require nursing judgment to safely alter standard procedures in accordance with the needs of the patient; or require nursing judgement to determine how to proceed from one step to the next; or require the multi-dimensional application of the nursing process.
2. Non-complex interventions means those which can safely be performed according to exact directions, do not require alteration of the standard procedure, and for which the results and client/patient responses are predictable.

Nursing Care means the application of the nursing process to individuals, families, and groups which results in the performance of any act expressing judgment or skill based upon principles of the biological, physical, behavioral, and nursing sciences as defined through rules promulgated by the Board of Nursing in accordance with Neb. Rev. Stat. § 71-1,132.11.

Nursing Process means:

1. assessing human responses to actual or potential health conditions;
2. establishing nursing diagnoses;
3. establishing a plan of care for the client/patient, including goals, outcomes, and prescriptions for nursing interventions;
4. implementing the plan of care through the direct and indirect provision of nursing interventions; and
5. evaluating client/patient responses to the plan of care and nursing interventions, and making adjustments to the plan of care based upon such evaluation.

Nursing service delivery model means a framework selected by an organization which describes the method by which nursing services are provided and includes employer guidelines as defined in 172 NAC 99-002.

Pediatric Client means a client is both under the age of 18 and under the weight of 35 kilograms.

Personal Care means bathing, hair care, nail care, shaving, dressing, oral care, and similar activities.

Protocol means a written document that is created and/or approved by a RN or licensed practitioner which guides subjective and objective data collection, and defines interventions based upon the collected data.

Regulate rate of flow means to set or alter the rate of flow of an intravenous fluid based upon the calculation of the rate by a registered nurse or licensed practitioner.

Stable and/or Predictable means a situation where the client/patient's clinical and behavioral status and nursing care needs are determined by the RN and/or licensed practitioner to be non-fluctuating and consistent or where the fluctuations are expected and the interventions are planned, including those clients/patients whose deteriorating condition is expected.

Supervision means the provision of oversight and includes maintaining accountability to determine whether or not nursing care is adequate and delivered appropriately. Supervision includes the assessment and evaluation of client/patient condition and responses to the nursing plan of care, and evaluation of the competence of persons providing nursing care.

1. Conditions of supervision means the method of supervision (direct or indirect), the identification of the persons to be supervised as well as the nursing interventions being provided, and the stability and/or predictability of the client/patient(s)' condition.
2. Direct supervision means that the responsible licensed nurse or licensed practitioner is physically present in the clinical area, and is available to assess, evaluate and respond immediately. Direct supervision DOES NOT mean that the responsible licensed nurse or licensed practitioner must be in the same room, or "looking-over-the-shoulder" of the persons providing nursing care.

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3. Indirect supervision means that the responsible licensed nurse or licensed practitioner is available through periodic inspection and evaluation and/or tele-communication for direction, consultation and collaboration.

Unlicensed person means a person who does not have a license to practice nursing and who functions in an assistant or subordinate role to the nurse. Unlicensed persons receive the authority to provide selected non-complex nursing interventions through delegation from the RN.

99-003 MINIMUM STANDARDS FOR NURSING CARE RESPONSIBILITIES OF LICENSED NURSES WITHIN THE FRAMEWORK OF THE NURSING PROCESS, INCLUDING PARAMETERS FOR DELEGATION AND ASSIGNMENT OF NURSING INTERVENTIONS, INCLUDE BUT ARE NOT LIMITED TO:

Registered Nurse (RN)
Based on independent, dependent, and interdependent functions:

Licensed Practical Nurse (LPN)
At the direction of RN or Licensed Practitioner:

Unlicensed Person
As assigned, delegated, and/or directed by the RN or as assigned and directed by the LPN

99-003.01 Assess-ing

99-003.01A Conducts and documents nursing assessments of the health status of individuals, families, and groups by:

1) Collecting objective and subjective data from observations, examinations, interviews, and written records. The data include but are not limited to:

- a) biophysical and emotional status including patterns of coping and interacting;
- b) growth and development;
- c) cultural, spiritual, and socio-economic background;
- d) health history;
- e) information collected by other health team members;
- f) client/patient knowledge and perception about health status and potential, or maintaining health status;
- g) ability to perform activities of daily living and personal care;
- h) the client/patient's health goals;

99-003.01B Contributes to the assessment of health status of individuals including interactions of individuals with family members or group members, by:

1) Collecting basic objective and subjective data from observations, examinations, interviews, and written records. The scope and depth of data collection is consistent with the educational preparation of the LPN. Such data may include:

- a) physical and emotional status;
- b) growth and development;
- c) cultural, spiritual, and socio-economic background;
- d) health history;
- e) information collected by other health team members;
- f) client/patient understanding of health status and self-care needs;
- g) ability to perform activities of daily living and personal care;
- h) environmental factors (e.g.,

99-003.01C Contributes to the assessment of the health status of individuals including interactions of individuals with family members or group members by:

1) Collecting basic subjective and objective data from observations and interviews. The data to be collected is identified by the RN and/or LPN.
2) Reporting and recording the collected data.

- i) environmental factors (e.g., physical, emotional and ecological); and
- j) available and accessible human and material resources.
- 2) Sorting, selecting, reporting and recording the data.
- 3) Validating, refining and modifying the data by utilizing available resources including interactions with the client/patient, family, significant others, and health team members.
- physical, emotional and social, and ecological); and
- i) available and accessible human and material resources;
- 2) Recording and reporting the data.
- 3) Assisting with validating, refining and modifying the data by utilizing available resources including interactions with the client/patient, family, significant others, and health team members.

99-003.02 Establishing nursing diagnoses

- 99-003.02A Utilizes all data to:
- 1) Identify and document responses to actual or potential health conditions and derives nursing diagnosis(es):
- a) based upon synthesis of the collected data,
- b) which identify(ies) the needs and priorities of the client(s)/patient(s).
- 2) Identify educational and counseling needs.

- 99-003.02B Contributes to establishing nursing diagnoses which identify(ies) the needs of the client/patient by:
- 1) Identifying signs and symptoms of deviation from normal health status.
- 2) Identifying overt learning needs.

- 99-003.02C Identifies basic signs and symptoms of deviations from normal health status and provides basic information which licensed nurses use in identification of problems and needs.

99-003.03 Planning Care

- 99-003.03A Develops a plan of care for individuals, families, and groups based on assessment and nursing diagnosis(es). This includes:
- 1) Consideration of the cultural, ethnic, and spiritual needs of the client/patient;
- 2) Consideration of client/patient decisions

- 99-003.03B Participates in the development of the plan of care for individuals. This includes:
- 1) Recognition of the client/patients cultural, ethnic, and spiritual needs;
- 2) Recognition of the client/patient's beliefs and rights to choice;
- 3) Providing data;

- 99-003.03C Contributes to the development of the plan of care for individuals by reporting basic data.

- regarding treatment;
 - 3) Identification of priorities;
 - 4) Collaborating with client/patient to establish goals/outcomes;
 - 5) Prescribing nursing interventions;
 - 6) Identifying measures to:
 - a) maintain comfort;
 - b) support human functions and response; and
 - 7) Consideration of educational and counseling measures to promote, maintain, and restore health; and
 - 8) Identifying community resources for continued care.
- 4) Contributing to the identification of priorities;
 - 5) Contributing to setting goals/outcomes; and
 - 6) Assisting in identification of measures to:
 - a) maintain comfort;
 - b) support human functions and response; and
 - c) maintain an environment conducive to well being.
 - 7) Consideration of the overt learning needs of the client/patient.
 - 8) Contributing to identification of community resources for continued care.

99-003.04 Implementing the plan of care.

- 99-003.04A Implements a plan of care including:
- 1) Initiating nursing interventions through:
 - a) writing nursing directives;
 - b) giving direct care;
 - c) assisting with care;
 - d) providing education and counseling; and
 - e) assigning, directing, and delegating.
 - 2) Implementing the diagnostic or therapeutic regimens of licensed practitioners.
 - 3) Providing an environment conducive to safety and health;
 - 3) Documenting nursing interventions and client/patient responses to care, and
 - 4) Communicating interventions and responses to other members of the

- 99-003.04B Participates in the assisting and giving of care by:
- 1) Providing care for client/patients whose conditions are stabilized and/or predictable;
 - 2) Under direct supervision of the RN, assisting with the provision of care for client/patients whose conditions are not stable and/or predictable and who are not competent to make informed decisions and provide necessary information;
 - 3) Implementing nursing care according to the priority of needs and established plan of care;
 - 4) Implementing diagnostic or therapeutic regimens of licensed practitioners.
 - 5) Directing and assigning nursing interventions.
 - 6) Providing an environment

- 99-003.04C Participates in the giving of direct care by:
- 1) Assisting with ADLs, personal cares, and encouraging self care;
 - 2) Providing comfort measures and emotional support to client/patients whose condition is stable and/or predictable;
 - 3) Assisting with basic maintenance and restorative nursing;
 - 4) Providing a safe and healthy environment;
 - 5) Documenting and communicating completion of assigned/delegated activities and client/patient responses; and
 - 6) Seeking guidance and direction when appropriate

health team.

conducive to safety and health;

7) Documenting nursing interventions and client/patient responses to care; and

8) Communicating interventions and responses to care to appropriate members of the health team.

99-003.05 Evaluating response to interventions

99-003.05A Evaluates the responses of individuals, families and groups to nursing interventions.

1) Evaluation data must be documented and communicated to appropriate members of the health care team; and 2) Evaluation data must be used as a basis for:

- a) Reassessing client/patient health status;
- b) measuring outcomes and goal attainment;
- c) modifying nursing diagnosis(es);
- d) revising strategies of care; and
- e) prescribing changes in nursing interventions.

99-003.05B Contributes to the evaluation of the responses of individuals to nursing interventions.

1) Evaluation data must be documented and communicated to appropriate members of the health care team.

2) Contribute to the modification of the plan of care based upon the evaluation.

99-003.05C Contributes to the evaluation.

1) Document and communicate client/patient responses.

2) Assist with collection of data.

99-004 STANDARDS FOR DELEGATION

99-004.01 Delegation of Nursing Interventions. Full utilization of licensed nurses may require auxiliary patient care services provided by persons carrying out interventions for the support of nursing services as delegated by RNs. The scope of delegation may vary depending on the level of nursing judgement required for the interventions, the knowledge and skills of the unlicensed person, the method and frequency of supervision, and the client/patient's condition, ability, and willingness to be involved in the management of his/her own care.

99-004.01A Premises of delegation.

99-004.01A1 Only licensed nurses are legally authorized to practice nursing as defined in the Act.

99-004.01A2 Only RNs licensed in accordance with the Act may delegate nursing interventions to be performed by others on behalf of the nurse. Such delegation must be in a manner that does not conflict with the Act or these regulations.

99-004.01A3 RNs retain accountability for the application of nursing process when making the decision to delegate nursing interventions, and for the adequacy of client/patient care and outcomes related to the delegation decision.

99-004.01A4 Nursing is a process discipline based upon a systematized body of nursing knowledge and cannot be reduced to a list of tasks. Individual tasks or activities labeled as nursing provided in isolation by unlicensed persons functioning independently of the nurse is unlawful and constitutes the practice of nursing without a license.

99-004.01A5 Many nurses are employees of organizations. Within organizational hierarchy, the transference of organizational responsibility and accountability occurs within the decision making framework defined by the institution. Such a framework is a managerial division of responsibilities, and may include a nursing service delivery model and employer guidelines. The standards applied at the organizational level must meet or exceed the standards for delegation as defined within these regulations.

99-004.01A6 Although unlicensed persons may be used to complement licensed nurses in the provision of nursing care, such persons cannot be used as a substitute for the licensed nurse.

99-004.01B Standards for Delegation.

99-004.01B1 RNs must use a systematic delegation decision making process based upon nursing education, a body of nursing knowledge, and nursing judgement to delegate in a manner that allows for safe, accountable, and responsible provision of nursing care.

99-004.01B2 RNs must match the level of judgement required for the selected interventions with the experience and competency of the unlicensed person(s) and with the level of supervision available.

99-004.01B3 The detail and method of communication must be congruent with the level of nursing judgement required for the delegated nursing intervention and the experience and competency of the unlicensed person and the frequency and method of supervision.

99-004.01B4 Nursing service administrators may select nursing service delivery models and develop employer guidelines for the provision of nursing care that do not conflict with the Act or these regulations. Nursing service administrators are accountable to provide adequate resources to carry out the delegation plan.

99-004.01B5 Staff RNs may utilize employer guidelines in the delegation decision making process but retain accountability for individual delegation decisions, the delegation plan, and evaluation of delegation outcomes.

99-004.01C Delegation Process. RNs must utilize a decision making process to delegate in a manner that protects public health, welfare, and safety. Such a process must include:

1. Assessing client/patient(s) and resources.
 - a. Nursing service administrators must assess the health status of group(s) of client/patients, analyze the data and identify collective nursing care needs, priorities, and necessary resources.
 - b. Staff RNs must assess client/patients individual health status, analyze the data, and identify the client/patient's specific goals, nursing care needs and necessary interventions.
2. Developing a delegation plan. The delegation plan must include:
 - a. Selecting and identifying nursing interventions which may be delegated.
 - (1) Selected interventions must be those:
 - (a) which frequently recurs in the daily care of a client/patient or group of clients/patients,
 - (b) which do not require the unlicensed person to exercise independent nursing judgment,
 - (c) which do not require complex and/or multi-dimensional application of the nursing process,
 - (d) for which the results of the intervention are predictable and the potential risk is minimal, and

- (e) which utilize a standard and unchanging procedure.
- (2) Interventions which must not be delegated include, but are not limited to:
 - (a) activities including data collection, problem identification, and outcome evaluation which require independent nursing judgement;
 - (b) teaching except for that related to promoting independence in personal care and activities of daily living;
 - (c) counseling, except that unlicensed persons may be instructed to recognize and report basic deviations from healthy behavior and communication patterns, and may provide listening, empathy, and support.
 - (d) coordination and management of care including collaborating, consulting, and referring;
 - (e) triage and/or the giving of advice; and
 - (f) treatments which are complex interventions as defined in 172 NAC 99-002.
- (3) RNs must identify the selected nursing interventions.
 - a) Nursing service administrators must identify selected interventions through an organizational description of a nursing service delivery model and employer guidelines.
 - (b) Staff RNs must identify selected interventions on an individual basis.
- (4) If an RN delegates medication provision, such delegation must be done in accordance with the Medication Aide Act, Neb. Rev. Stat. §§ 71-6718 to 71-6742.
- b. Selecting and identifying unlicensed persons providing auxiliary patient care services in support of nursing and to whom nursing interventions may be delegated.
 - (1) RNs must assess and identify the unlicensed person(s) education/training, experience, and competency to provide selected nursing interventions .
 - (2) Nursing service administrators must establish organizational standards which identify educational and training requirements, and competency measurements of unlicensed persons. Nursing service

administrators must identify unlicensed persons by a position title and role delineation/job description.

- (3) Staff RNs must instruct and/or assess, verify, and identify the unlicensed person's competency on an individual and client/patient specific basis.
- c. Selecting and identifying the methods of supervision and the licensed health care professionals responsible to provide supervision.
- (1) The method of supervision and the frequency of assessment, inspection, and evaluation must be determined by RNs after an evaluation of the involved factors including, but not limited to the following:
 - (a) the willingness and ability of the client/patient to be involved in the management of his/her own care;
 - (b) the stability of the client/patients condition;
 - (c) the experience and competency of the unlicensed person(s) providing nursing interventions; and
 - (d) the level of nursing judgement required for the delegated nursing interventions.
 - (2) Nursing service administrators must establish organizational standards and employer guidelines which provide for sufficient supervision to assure that the nursing care is adequate and meets the needs of the client/patients. Nursing service administrators must identify the licensed health care professionals responsible to provide supervision by a position title and role delineation/job description.
 - (3) Staff RNs must determine the method of supervision on an individual basis and identify any other licensed nurses who have been assigned the responsibility for supervision.
- d. Communicating the delegation plan.
- (1) Nursing service administrators must communicate the delegation plan to licensed nurses responsible to provide supervision and to unlicensed persons(s) responsible to provide nursing interventions through description of a nursing service delivery model and employer guidelines.
 - (2) Staff RNs must communicate decisions regarding selected interventions and the conditions of supervision to licensed nurses responsible to provide supervision and to unlicensed person(s)

responsible to provide nursing interventions as appropriate and on an individual basis.

(a) Communication of selected interventions to unlicensed persons must be in accordance with 172 NAC 99-005.02 item 3.

3. Implementing the delegation plan by providing direction and supervision.

a. Direction must include:

- (1) initial instruction related to the delegated intervention(s);
- (2) monitoring to assure that the delegated nursing intervention(s) have been provided; and
- (3) evaluating client/patient responses and delegated nursing interventions.

b. Supervision:

- (1) may be provided by the delegating RN, by other licensed health care professionals identified in the delegation plan in accordance with 172 NAC 99-004.01C item 2.c., and/or by licensed nurses directing unlicensed persons in accordance with 172 NAC 99-005.02.
- (2) must include direct supervision, indirect supervision, or a combination of both methods.
 - (a) RNs may utilize both direct and indirect methods of supervision. When indirect supervision methods are utilized, RNs must be available through telecommunication.
 - (b) LPNs may only utilize direct methods of supervision.

4. Evaluating the delegation plan by:

- a. obtaining feedback from unlicensed persons;
- b. providing feedback to unlicensed persons;
- c. measuring client/patient response and goal attainment related to the delegated interventions; and
- d. altering the delegation plan as indicated by client/patient response.

99-005 STANDARDS FOR DIRECTION: In the administration and management of nursing care, RNs, LPNs, and licensed practitioners provide direction. RNs and licensed practitioners provide direction to LPNs; RNs and LPNs provide direction to unlicensed persons providing auxiliary patient care services. The method and degree of direction may vary based upon client/patient condition, the interventions to be applied, and the qualifications and competency of the person providing the interventions.

99-005.01 Standards for LPNs to receive direction from RNs and licensed practitioners.

99-005.01A For valid direction to occur:

1. direction must be in a manner that sufficiently instructs and guides LPNs to assure that the nursing care provided is adequate to meet the client/patient needs;
2. direction may include identification of any specific assessment data to be collected relative to client/patient condition, client/patient diagnosis, and/or presenting signs and symptoms of the client/patient;
3. direction may include identification of the specific interventions to be applied based upon the collected assessment data and/or client/patient response to interventions; and
4. direction must include the provision of supervision to LPNs. Supervision may include direct, indirect, or a combination of direct and indirect methods.

99-005.01B LPNs must:

1. practice nursing only under circumstances in which direction is provided by a RN or licensed practitioner;
2. exercise competence in providing and directing nursing interventions;
3. initiate consultation/collaboration according to observed signs and symptoms of deviations from normal health status, and/or according to the directions specified by the RN or licensed practitioner; and
4. provide nursing interventions according to the direction and instructions identified by the RN or licensed practitioner.

99-005.01C Methods and circumstances by which LPNs may receive direction from RNs and licensed practitioners must be similar to the following:

1. Indirect supervision provided through protocols.
 - a. Acceptable circumstances are when client/patient conditions are stable and/or predictable, or when the client/patient is competent to make

- informed decisions and provide necessary information relative to the interventions.
- b. Standards for protocols must include the following. Protocols must:
 - (1) be written;
 - (2) identify any specific assessment data in accordance with 172 NAC 99-005.01A items 1 and 2; and
 - (3) identify interventions which maybe provided. Interventions may include (1) monitoring client/patient condition by the LPN, (2) the direct provision of nursing interventions by the LPN, (3) referral to another licensed health care provider for service, and/or (4) consultation with a RN or licensed practitioner for specific direction.
 - c. When protocols are used, indirect supervision by the RN or licensed practitioner must include:
 - (1) evaluation by the RN or licensed practitioner to determine the adequacy of the protocols to serve the intended purpose; and
 - (2) availability of the RN or licensed practitioner, or an appropriate substitute, to the LPN by telecommunication for consultation and collaboration. By way of example, an appropriate substitute may be a licensed practitioner in an emergency room, the client/patient's primary health care provider, or another specifically designated RN.
2. Indirect supervision provided through periodic inspection and evaluation in combination with nursing and medical plans of care and, when appropriate, employer guidelines.
- a. Acceptable circumstances are when client/patient condition is stable and/or predictable but the client/patient may or may not be competent to make an informed decision, and may or may not be capable of providing information relative to interventions.
 - (1) An exception to the requirement for the client/patient condition to be stable and/or predictable may be when the client is competent to make informed decisions and provide necessary information relative to the interventions.
 - b. Standards for nursing and medical plans of care and, when appropriate, employer guidelines must include the following. Plan(s) of care and/or employer guidelines must:
 - (1) be written, and may be augmented by verbal direction and feedback from the RN or licensed practitioner,

- (2) identify any specific assessment data in accordance with 172 NAC 99-005.01A items 1 and 2.
 - (3) identify appropriate interventions. Interventions may include (1) all of the interventions listed above in 172 NAC 99-005.01C item 1.b.(3), and (2) the indirect provision of non-complex interventions through direction and assignment of auxiliary patient care services by the LPN to unlicensed persons in accordance with 172 NAC 99-005.02 and 172 NAC 99-006.03.
 - (c) When nursing and medical plans of care and, when appropriate, employer guidelines are used, indirect supervision by the RN or licensed practitioner must include:
 - (1) periodic inspection and evaluation, the frequency of which must be determined by the RN or licensed practitioner. Factors to be considered include the competency of the LPN and the stability of the client/patient condition(s); and
 - (2) availability of the RN or licensed practitioner, or an appropriate substitute, to the LPN by telecommunication for consultation and collaboration.
3. Direct supervision in combination with nursing and medical plans of care and, when appropriate, employer guidelines.
 - a. Appropriate circumstances for direct supervision are when client/patient conditions and responses to interventions are not stable and/or predictable, and when client/patient(s) are not competent to make informed decisions or provide necessary information thereby requiring frequent assessment by the RN or licensed practitioner.
 - b. Standards for plans of care and employer guidelines must include the following. Plans of care and employer guidelines must:
 - (1) be written, and may be augmented by verbal direction and feedback from the RN or licensed practitioner,
 - (2) identify specific assessment data to be collected for a specific client/patient, and
 - (3) identify interventions which are to be directly provided by the LPN for a specific client/patient. Client/patient specific instruction must be included when appropriate.
 - c. When warranted by the circumstances described 172 NAC 99-005.01C items 3.a., direct supervision by the RN or licensed practitioner must include frequent evaluation of client/patient condition and response to the nursing plan of care.

99-005.02 Licensed nurses direct the provision of auxiliary patient care services provided by unlicensed persons in support of nursing services. The degree of direction is dependent upon the competency of the unlicensed provider, the nature of the nursing interventions, and the condition of the client/patient.

99-005.02A Standards for licensed nurses to provide direction to unlicensed persons:

1. Licensed nurses must direct unlicensed persons in the provision of nursing interventions only if such unlicensed persons have received authority to provide nursing interventions through delegation from an RN in accordance with the provisions of 172 NAC 99-004.01.
2. Licensed nurses must be knowledgeable of the delegation plan and the conditions of supervision. Licensed nurses must obtain knowledge of the delegation plan through the organizational nursing service delivery model and employer guidelines, and as may be augmented by the delegating RN.
3. Licensed nurses must communicate to the unlicensed person the conditions of any assignment for which the licensed nurse is responsible to provide direction. Communication may be either written and/or oral and may include as appropriate:
 - a. the specific observations to be monitored, and the expected method of communication to report such observations;
 - b. the specific interventions to be applied, and any client/patient specific instructions and/or limitations;
 - c. the expected results of nursing interventions; and
 - d. the unexpected results or potential complications of nursing interventions, including the method and time lines for communicating such to the licensed nurse
4. RNs may provide direction to unlicensed persons through both direct or indirect supervision.
5. LPNs must provide direction to unlicensed persons only through direct supervision.
6. Licensed nurses must monitor and evaluate the nursing care provided by unlicensed personnel to assure that care is adequate and meets the needs of the client/patient, and
7. Licensed nurses must evaluate the competence of the unlicensed persons providing nursing interventions relative to specific assignments.

99-006 STANDARDS FOR ASSIGNMENT: In the administration and management of nursing care, licensed nurses may assign the responsibility for performance of nursing interventions to other persons. Assignments of nursing interventions are made by licensed nurses to others who are authorized to provide nursing care through licensure as a registered nurse, licensure as a practical nurse, or through delegation from a registered nurse to an unlicensed person.

99-006.01 Standards for assignments by licensed nurse to other licensed nurses.

99-006.01A RNs and LPNs must:

1. assign only those nursing interventions authorized by the level of nursing for which the nurse receiving the assignment is licensed, and
2. assign only those nursing interventions for which the nurse making the assignments has reason to believe the nurse receiving the assignment is competent to provide.
 - a. The nursing service administrator is responsible to assess and evaluate to determine that licensed nurses have the required competencies expected for the nurse's nursing practice role.
 - b. The nurse making assignments is responsible to assess the competence of the nurse accepting the assignment to fulfill the specific patient care assignment.

99-006.01B RNs may assign the responsibility of supervision within the delegation plan to other licensed nurses only if the conditions of the supervision as defined in 172 NAC 99-002 have been communicated.

99-006.02 Standards for licensed nurses accepting assignments.

99-006.02A RNs and LPNs must:

1. accept only those assignments authorized by the level of nursing for which the nurse receiving the assignment is licensed,
2. accept only those assignments for which he/she has the required knowledge, skills, and abilities,
3. acknowledge personal limitations in knowledge and skills, and communicate the need for specialized instruction prior to accepting any assignments, and
4. give sufficient notice of intent to refuse an assignment so as to allow the nurse making the assignment to make alternative arrangements for the assignment.

99-006.02B LPNs may accept assignments only when direction by a licensed practitioner or RN is provided in accordance with 172 NAC 99-005.

99-006.03 Standards for assignments by licensed nurses to unlicensed persons. RNs and LPNs must:

1. make assignments only to those unlicensed persons authorized through delegation from the RN in accordance with 172 NAC 99-004.01, and
2. determine assignments within the framework of the delegation plan as described in 172 NAC 99-004.01C item 2. RNs and LPNs may limit assignment(s) according to competency of the unlicensed person and the current nursing care needs of the client/patient condition.

99-007 APPROPRIATE ROLE OF THE LPN IN INTRAVENOUS THERAPY: This section is intended to define appropriate nursing interventions, based on the LPN's knowledge and skills acquired in an approved practical nursing educational program, which the LPN may accept as a directed activity related to intravenous therapy. The interventions must be within the scope of practice of the licensed practitioner or registered nurse directing the activity.

99-007.01 Acceptance of directed activities related to intravenous therapy. A LPN may accept responsibility for provision of the following interventions:

1. Assisting in initiating intravenous therapy;
2. Monitoring the rate of flow;
3. Temporarily slowing the rate of flow and reporting observations;
4. Discontinuing peripheral intravenous catheters that are no more than three inches in length;
5. Assisting in the administration of blood transfusions, hypodermoclysis, and hyperalimentation;
6. Regulating the rate of flow including the use of regulatory equipment;
7. Adding intravenous solutions to an established peripheral line, excluding those on pediatric clients. Solutions must be unmedicated, commercially prepared or prepared by a pharmacist or registered nurse, and may include vitamins and/or KCl. Acceptable intravenous solutions are limited to those fluids that are generally used as maintenance and isotonic in nature; and
8. Changing of intravenous tubing for peripheral lines only.

99-007.02 Activities related to intravenous therapy which a licensed practical nurse MAY NOT accept as directed activities include but are not limited to:

1. Venipuncture for purposes of initiating intravenous therapy;
2. Intravenous medication administration;

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3. Administration of intravenous solutions via any other route except the peripheral intravenous route;
4. Heparin lock flushes;
5. Administration of intravenous fluids to pediatric clients; and
6. Administration of chemotherapy, hyperalimentation, blood or blood products.

99-007.03 Direction and Supervision. Valid direction and appropriate supervision must be in accordance with the provisions of 172 NAC 99-005.01.

99-007.03A The licensed practitioner or registered nurse must be present at least once during each 24-hour interval to assess the client when the LPN is providing any of the interventions identified in 172 NAC 007.01 items 6 through 8.

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 100 ADVANCED PRACTICE REGISTERED NURSE

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 100 ADVANCED PRACTICE REGISTERED NURSE

100-001 SCOPE AND AUTHORITY: These regulations govern the practice of advanced practice registered nurses in the State of Nebraska. The statutory authority for these regulations is Neb. Rev. Stat. §§ 71-147 to 71-148, 71-150 to 71-162.05, 71-164.01, 71-172.02, 71-1,132.20, and 71-1704 to 71-1726.02.

100-002 DEFINITIONS

Act means the Advanced Practice Registered Nurse Act.

Approved advanced practice registered nurse program means a program which (1) is a minimum of one full-time academic year or nine months in length and includes both a didactic component and a preceptorship of 500 contact hours and (2) includes, but is not limited to, instruction in biological, behavioral, and health sciences relevant to practice as an advanced practice registered nurse in a specific clinical area and, (3) except for the specialties of women's health and neonatal, grants a post-master certificate, master's degree, or doctoral degree for all applicants who graduated on or after July 19, 1996, and granted a master's or doctoral degree, post-master certificate, or diploma for all applicants who graduated prior to July 19, 1996. A post-master certificate, master's degree, or a doctoral degree is not required for programs in the specialty of women's health or neonatal.

Approved certification program means a certification process for APRNs utilized by an approved certification body that (1) requires evidence of completion of a formal program of study in an APRN clinical specialty, (2) requires successful completion of a nationally recognized certification examination developed by the approved certifying body, and (3) provides an ongoing recertification program.

Approved certifying body means a national certification organization which certifies qualified licensed nurses for advanced practice in a clinical specialty area and which (1) requires eligibility criteria related to education and practice, (2) offers an examination in an advanced nursing area which meets current psychometric guidelines and tests, and (3) is approved by the Board.

Approved credentialing examination means an examination for advanced practice registered nurses offered by an approved certifying body which administers an approved certification program.

Advanced Practice Registered Nurse (APRN) is a person licensed as a registered nurse or with the authority to practice as a registered nurse in this state pursuant to the provisions of the Nurse Licensure Compact who meets all the criteria for licensure and holds a current license to practice as an APRN.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Advanced Practice Registered Nurses.

Boards means the Board of Advanced Practice Registered Nurses and the Board of Nursing.

Certification means the status granted in a nursing clinical specialty by an approved certifying body through a process which requires evidence of completion of a formal program of study in an APRN clinical specialty and successful completion of an examination.

Collaborating physician means a physician or osteopathic physician licensed in Nebraska and practicing in the same geographic area and practice specialty, related specialty, or field of practice as the APRN.

Completed application means an application that includes all of the information requested on the application verified with the applicant's oath and is submitted along with the required fee and all required documentation.

Continuing education means planned, organized, systematic, and evaluative educational experiences designed to maintain or enhance the knowledge, skills, and/or attitudes of APRNs for nursing practice in health promotion, health supervision, illness prevention and diagnosis, treatment, and management of common health problems and chronic conditions.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of the Department of Health and Human Services Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Jointly approved protocols means a regimen that is created and/or approved by the APRN and collaborating physician and guides the APRN's practice.

Lapsed status means the designation given to a licensee who requests this status or to a licensee who fails to renew his/her APRN license.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 100.

Notarized means sworn before a Notary Public.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

Official record means a document that carries the seal, signature or other notation indicating that the document was issued by the primary source.

Official transcript means a transcript issued by and under the original seal of the educational institution.

Physician means a physician or osteopathic physician licensed to practice medicine and surgery or osteopathic medicine in Nebraska.

Preceptorship means the clinical practice component of an educational program for the preparation of APRNs.

Recertification means the continued periodic granting of certification in a clinical APRN specialty area by an approved certifying body through a process that requires the applicant to meet criteria related to education and practice.

Reentry program means an organized approach to learning that results in current knowledge related to one or more specialty area(s) of advanced nursing practice.

Reinstatement means the return to active status and the restoration of the authority to practice to a licensee who was previously licensed in this state.

100-003 REQUIREMENTS FOR ISSUANCE OF A LICENSE: A person may practice as an APRN in Nebraska only if s/he holds a Nebraska license or a temporary permit. This requirement does not prohibit persons identified in Neb. Rev. Stat. § 71-1726.01 from practicing advanced practice nursing as limited by that section. The criteria for issuance of a license and temporary permit, and the documents required in applying are set forth below.

100-003.01 Requirements for Licensure: The applicant must:

1. Be licensed as a registered nurse in the State of Nebraska or have the authority to practice in this state as a registered nurse pursuant to the provisions of the Nurse Licensure Compact;
2. Have successfully completed an approved advanced practice registered nurse program. Except for women's health and neonatal, all applicants graduating after July 19, 1996 must have a master's degree, post-master's certificate, or doctoral degree;
3. Have successfully completed 30 contact hours of education in pharmacotherapeutics;
4. Have passed an approved credentialing examination. Approved credentialing examinations include:
 - a. AANP examinations in Adult and Family Nurse Practitioner;
 - b. ANCC examinations in Adult, Family, School, Pediatric, Gerontological, Psych/Mental Health and Acute Care Nurse Practitioner, and the Clinical

- Specialists examinations in Medical-Surgical, Gerontological, Adult Psychiatric and Mental Health, and Child and Adolescent Psychiatric and Mental Health;
- c. NCC examinations in Women's Health Care and Neonatal Nurse Practitioner; and the
 - d. PNP National Qualifying Examination for Pediatric Nurse Practitioners;
5. Meet the requirements for continuing competency by submitting documentation of one of the following:
- a. Current national certification/recertification and:
 - (1) Completion of an approved APRN program in the previous five years; or
 - (2) Practice as an APRN in a specific advanced practice role in the previous five years.
 - (a) Applicants who have previously been authorized in another state must have 2080 hours of practice within the five years immediately preceding application; and
 - b. Applicants who do not have current national certification/recertification and who have not completed an approved APRN program in the previous five years or practiced as an APRN in a specific advanced practice role in the previous five years must:
 - (1) Have successfully completed a reentry program within the previous two years that has been approved by the Board; or
 - (2) Pass an approved credentialing examination within the two years immediately preceding application and successfully complete supervised practice as specified by the Board.
 - (a) Applicants must obtain a temporary permit for the practice portion of the reentry program or for any required supervised practice; and
6. Pay the appropriate fee.

100-003.02 Applicants Must Submit to the Department:

- 1. A written application which:
 - a. Is verified by the applicant's oath;
 - b. Contains the following information about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Day and evening telephone numbers;
 - (4) Gender;
 - (5) Date of birth;
 - (6) Place of birth;
 - (7) Social Security number;
 - (8) Name and location of advanced practice nursing program;
 - (9) Name and location of master's program, if applicable; and
 - (10) Nebraska RN license number or RN license number from a compact state of primary residence;

- c. Indicates whether s/he has completed at least 30 contact hours of education in pharmacotherapeutics; and
 - d. Contains a statement describing all of the following (information previously submitted on a mandatory report or other license application does not need to be submitted again):
 - (1) Pending charges which could result in a felony or misdemeanor conviction;
 - (2) Felony or misdemeanor convictions;
 - (3) Denials, discipline or pending discipline of a license in any health care profession; and
 - (4) Denials of admissions to take a licensing examination in any health care profession;
2. Documentation of continuing competency;
 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license.
 - (1) Administrative Penalty/Other Action. An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 100-010;
 4. An official transcript from an approved advanced practice registered nurse program documenting completion of program requirements including a master's degree, post-master's certificate, or doctoral degree. The master's degree, post-master's certificate, or doctoral degree is not required for applicants in the specialty of women's health or neonatal, or for applicants who graduated prior to July 19, 1996;
 5. An official transcript or notarized copy of a continuing education certificate documenting 30 contact hours of education in pharmacotherapeutics.
 - a. If pharmacology was integrated throughout the course work of an approved advanced practice registered nurse program, an official record from the program indicating integration of 30 contact hours of pharmacotherapeutics will be required;
 6. Documentation of having passed an approved credentialing examination. A letter or other official record from an approved certification program will be acceptable. Approved certification programs include:
 - a. Adult and Family Nurse Practitioner programs offered by the American Academy of Nurse Practitioners (AANP);
 - b. Adult, Family, School, Pediatric, Gerontological, and Acute Care Nurse Practitioner programs, and the Medical-Surgical, Gerontological, Adult Psychiatric and Mental Health, and Child and Adolescent Psychiatric and Mental Health programs offered by the American Nurses Credentialing Center (ANCC);

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- c. Women's Health Care and Neonatal Nurse Practitioner programs offered by the National Certification Corporation for Obstetric, Gynecologic and Neonatal Nursing Specialties; and
 - d. Pediatric Nurse Practitioner program offered by the National Certification Board of Pediatric Nurse Practitioners (PNP); and
7. The required licensure fee.
- a. Proration of Initial License Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25 and if applicable the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

100-003.03 The following applicants must provide additional information to the Department:

1. Persons with pending charges which could result in a felony or misdemeanor conviction;
2. Persons who have been convicted of a felony or misdemeanor; and
3. Persons whose license to practice in a health care profession has been denied or disciplined or is pending discipline.

100-003.04 Applicants listed in 172 NAC 100-003.03 must submit the following to the Department:

1. A full explanation of the pending charges, conviction, denial, disciplinary action, or pending disciplinary action; and
2. Official records as requested by the Department related to the conviction, denial or discipline, for example: probation reports, court records, licensure disciplinary reports, or chemical dependency evaluation.

100-003.05 Temporary Permit: Applicants for licensure as an APRN may be granted a temporary permit.

1. Applicants who have not previously taken an approved credentialing examination and who meet all of the requirements for licensure as an APRN except having passed an approved examination may be granted a temporary permit pending the results of the first credentialing examination following graduation.
 - a. For applicants who have not previously taken an approved examination, the examination required for licensure in the State of Nebraska will be considered to be the first credentialing examination following graduation.
 - b. Only applicants who have registered for the credentialing examination will be issued a temporary permit.
 - c. Proof of registration for the examination must be by letter to the Department from the approved certifying body or by notarized copy of a document from the certifying body to the applicant stating that registration is completed and identifying the date of the examination.
 - d. The temporary permit will be issued for 60 days or until the results of the examination are known.
 - (1) The temporary permit is null and void if the applicant fails the

- examination.
- (a) The applicant must inform the Department immediately upon receipt of notification that s/he has failed the examination.
 - (2) The temporary permit is null and void if the applicant fails to take the scheduled examination, unless extended at the discretion of the Board. Circumstances that may result in extension of the permit include illness/injury of self or immediate family member, or death of an immediate family member immediately prior to or on the date(s) of the examination.
 - (a) A written request for extension of the permit must be made to the Board explaining the circumstances under which the extension is requested.
2. Applicants who meet all of the criteria for licensure as an APRN and who are lawfully authorized to practice as an APRN in another state may be issued a temporary permit pending completion of the application for a Nebraska license.
- a. S/he must submit:
 - (1) A completed application,
 - (2) The required licensure fee,
 - (3) Evidence of current authorization by another state:
 - (a) Evidence of lawful authorization in another state must be documented by submission of a notarized copy of a current license in another state or other official record.
 - (4) Proof of national certification:
 - (a) Evidence of national certification must be documented by submission of a notarized copy of current certification by an approved certifying body or other official record.
 - b. The temporary permit may be issued for up to 120 days and is valid until the license is issued, until the expiration date of the authorization in the other state, or until any final decision is made to deny the license.
3. Applicants who meet all the criteria for licensure except the continuing competency requirements and who require a reentry program or supervised practice may be issued a temporary permit pending completion of the reentry program or supervised practice.
- a. Only applicants who have submitted a completed application, the required licensure fee, who have completed an approved APRN program, and have 30 contact hours of education in pharmacotherapeutics will be issued a temporary permit.
 - b. A temporary permit issued pursuant to this section is valid for clinical practice undertaken as part of a reentry program and only for the duration of the program, or for clinical practice under the direct supervision of a physician or an APRN with a collaborating physician agreement and for a specified time determined by the Board.
 - c. The temporary permit is valid until the license is issued, or until any final decision is made to deny the license unless extended at the discretion of the Board.

100-003.06 The Department will act within 150 days upon all completed applications for licensure.

100-003.07 If the Department denies issuance of a license, the applicant will be given an opportunity for an administrative hearing before the Department which will be conducted in accordance with the Administrative Procedure Act and the Department's Rules of Practice and Procedure.

100-004 CONTINUING COMPETENCY: The criteria for demonstration of continuing competency and the documents required are as follows:

100-004.01 By a licensee seeking to renew or reinstate an APRN license:

1. National certification/recertification;
2. Documentation of a minimum of 2080 hours of practice as an APRN within the previous five years immediately preceding renewal:
 - a. At least 500 of the 2080 hours of practice must be in a clinical role in which there is a direct nurse/patient relationship.
 - b. Applicants who have been licensed in Nebraska or authorized by any other jurisdiction for less than five years will not be required to meet the practice requirement for license renewal; and
3. Documentation of 40 contact hours of continuing education in the clinical specialty area within the previous two years, 10 hours of which must be in pharmacotherapeutics.
 - a. Applicants who have been licensed in Nebraska or authorized by any other jurisdiction for less than two years will not be required to meet the continuing education for license renewal.
4. Applicants seeking reinstatement or renewal who can not meet these requirements must complete a reentry program approved by the Board. The reentry program must include a minimum of 2080 hours of practice within the previous five years, and 40 contact hours of continuing education within the previous two years, 10 hours of which must be in pharmacotherapeutics.
 - a. Applicants must obtain a temporary permit for the practice portion of the reentry program.

100-004.02 By an applicant seeking initial licensure in this state:

1. Current national certification/recertification and, within the five years immediately preceding application:
 - a. Completion of an approved APRN program; or
 - b. 2080 hours of practice as an APRN in another state in a specific advanced practice role.
2. Applicants who do not meet these requirements must, within the two years

immediately preceding application, demonstrate continuing competency by:

- a. Successfully completing a reentry program that has been approved by the Board; or
- b. Passing an approved examination within the two years immediately preceding application and successfully completing supervised practice as specified by the Board.
- c. Applicants must obtain a temporary permit for the practice portion of the reentry program or for any required supervised practice.

100-005 REQUIREMENTS PRIOR TO COMMENCING PRACTICE

100-005.01 An APRN may not practice in an advanced role until s/he meets the following requirements:

1. Current licensure or temporary permit as an APRN issued by the Department;
2. Liability insurance of \$200,000 per incident and \$600,000 aggregate per year;
3. An Integrated Practice Agreement with a collaborating physician;
4. A master's or doctoral degree in nursing;
5. Separate course work in pharmacotherapeutics, advanced health assessment, and pathophysiology or psychopathology.
 - a. This requirement must be met by a minimum of 45 contact hours of graduate work in each of the identified areas; and
6. Practice as an APRN for a minimum of 2000 hours under the supervision of a physician.
 - a. APRNs who do not meet the requirements of having a master's or doctoral degree, separate course work, and having practiced under the supervision of a physician as required above will be required to have jointly approved protocols with a collaborating physician.

100-005.02 APRNs must submit to the Department:

1. A copy of an official document from the issuing institution documenting liability insurance of \$200,000 per incident and \$600,000 aggregate per year;
2. An Integrated Practice Agreement with a collaborating physician in which the APRN and physician verify items a-f following. The practice agreement must include the signatures of the APRN and the physician. If the license of the collaborating physician has a limitation or is on probationary status, the acceptance of the Integrated Practice Agreement will be subject to Board approval.
 - a. The APRN and collaborating physician practice collaboratively within the framework of their respective scopes of practice.
 - b. The APRN and collaborating physician are responsible for individual decisions in managing the health care of patients.
 - c. The APRN and collaborating physician have joint responsibility for patient care based upon the scope of practice of each practitioner.
 - d. The APRN and collaborating physician have jointly approved protocols which guide the APRN's practice if:

- (1) The APRN does not have a master's or doctoral degree in nursing;
 - (2) The APRN cannot demonstrate 45 contact hours of separate course work in pharmacotherapeutics, advanced health assessment, and pathophysiology or psychopathology; or
 - (3) The APRN does not have 2000 hours of practice under the supervision of a collaborating physician.
- e. The collaborating physician is responsible for supervision through ready availability for consultation and direction of the activities of the APRN within the APRN's defined scope of practice to ensure the quality of health care provided to patients.
 - f. The collaborating physician and the APRN have a duty to notify the Department upon termination of the agreement.
3. An official transcript showing a master's or doctoral degree in nursing, except for the clinical specialty of women's health or neonatal, and either:
 - a. An official record from an educational institution documenting 45 contact hours of course work in pharmacotherapeutics, advanced health assessment and advanced pathophysiology or psychopathology (course descriptions showing specific content or a letter from the program director indicating content hours and course descriptions indicating where each of the required subject areas were taught will be accepted); and
 - b. An attestation of completion of 2000 hours of practice under the supervision of a physician; or
 - c. If applicable, a statement attesting to jointly approved protocols agreed upon by the collaborating physician and the APRN.

100-005.03 Waiver: If, after a diligent effort to obtain an Integrated Practice Agreement, an APRN is unable to obtain an agreement with at least one physician, the Board may waive the requirement for an agreement based upon evidence that the applicant has a master's degree or a doctoral degree in nursing and has completed an approved nurse practitioner program, can demonstrate 45 contact hours of separate course work in pharmacotherapeutics, advanced health assessment, and pathophysiology or psychopathology, and has completed a minimum of 2000 hours of practice under the supervision of a physician.

1. The APRN must have made a diligent effort to obtain an Integrated Practice Agreement, and must agree to practice in a geographic area where there is a shortage of health care services as determined by the Board.
2. An applicant for waiver must submit a request to the Board.
3. Any waiver granted by the Board will be for the time specified by the Board.

100-006 RENEWAL OF A LICENSE

100-006.01 Expiration: All APRN licenses issued by the Department pursuant to the Act and these regulations expire on October 31 of each even-numbered year unless renewed as provided below.

100-006.02 Requirements: Before his/her license will be renewed an APRN must:

1. Have a current registered nurse license in Nebraska or authority to practice as an RN in this state pursuant to the Nurse Licensure Compact;
2. Meet the following requirements for continuing competency (attestation of meeting continuing competency requirements satisfies the documentation requirement of Neb. Rev. Stat. § 71-1724):
 - a. Current national certification/recertification;
 - b. Documentation of a minimum of 2080 hours of practice as an APRN within the five years immediately preceding renewal:
 - (1) At least 500 of the 2080 hours of practice must be in a clinical role in which there is a direct nurse/patient relationship.
 - (2) Applicants who have been licensed in Nebraska or authorized by any other jurisdiction for less than five years will not be required to meet the practice requirement for license renewal; and
 - c. Documentation of 40 contact hours of continuing education in the clinical specialty area within the previous two years, 10 hours of which must be in pharmacotherapeutics.
 - (1) Applicants who have been licensed in Nebraska or authorized by any other jurisdiction for less than two years will not be required to meet the continuing education or practice requirement for license renewal.
 - d. Applicants seeking renewal who can not meet these requirements must complete a reentry program approved by the Board. The reentry program must include a minimum of 2080 hours of practice within the previous five years, and 40 contact hours of continuing education within the previous two years, ten hours of which must be in pharmacotherapeutics.
 - (1) Applicants must obtain a temporary permit for the practice portion of the reentry program; and
3. Pay the renewal fee.

100-006.03 Procedures

100-006.03A First Notice: On or before August 1 of even-numbered years, the Department will send a renewal notice and a notice of requirement for documentation of continuing competency by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

1. The renewal notice will specify:
 - a. The name of the licensee;
 - b. The licensee's last known address of record;
 - c. The license number;
 - d. The expiration date of the license;
 - d. The renewal fee as prescribed in 172 NAC 100-009;

- e. The attestation of continuing competency;
 - f. The option to place the license on lapsed status; and
 - g. The attestation of primary state of residence.
2. The licensee must apply for renewal by submitting to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. The licensee's Social Security number;
 - d. Attestation of meeting the continuing competency requirements within the required time period or application for waiver of continuing competency; and
 - e. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).
 3. If the licensee wishes to place her/his license on lapsed status s/he must:
 - a. Request that her/his license be placed on lapsed status by submitting to the Department the renewal notice with a check in the box marked lapsed.
 4. The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed status.
 5. A licensee whose license is on lapsed status must not practice in this state.

100-006.03B Second Notice: The Department will send to each licensee who fails to renew her/his license or place the license on lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 100-006.03A that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That the licensee is subject to an administrative penalty pursuant to 172 NAC 100-010 if s/he practices after the expiration date;
5. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency within that time, the license will be not be placed on lapsed status;
6. That upon failure to receive \$25 in addition to the renewal fee, and documentation of continuing competency, the license will be lapsed.

100-006.03C The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's Social Security number;
4. Attestation by the licensee:

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- a. That s/he has not practiced in Nebraska since the expiration of her/his license; or
- b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of meeting the continuing competency requirements within the required time period or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

100-006.03D If the licensee wishes to place her/his license on lapsed status s/he must request that her/his license be placed on lapsed status by submitting to the Department the renewal notice with a check in the box marked lapsed.

100-006.03E The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed status.

100-007 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

100-007.01 Eligibility

100-007.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Suspended or limited for disciplinary reasons; or
3. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

100-007.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

100-007.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 100-010, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

100-007.02 Requirements to Move a Credential from Lapsed to Active Status: A person whose credential has been placed on lapsed status may have her/his credential moved from lapsed to active status upon proof to the Department that s/he meets the following

requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and the late fee; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

100-007.03 Procedures for Moving from Lapsed to Active Status: To move a credential from lapsed status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant; and
 - f. Verification that the continuing competency requirements for renewal have been met;

2. The renewal fee and the late fee; and
3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

100-007.03A If an applicant has practiced while her/his credential was lapsed the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 100-010;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from lapsed to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

100-007.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from lapsed to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

100-007.03C In either event pursuant to 172 NAC 100-007.03A or 100-007.03B, a notice and the opportunity for hearing will be given to the applicant.

100-007.03D The Department will act within 150 days on all completed applications.

100-007.04 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
2. Pay the reinstatement fee of \$75; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active

- credential; or
- b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

100-007.05 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

- (c) Disciplinary charges pending against any professional credential held by the petitioner; and
 - (6) Any continuing competency activities;
2. The reinstatement fee of \$75; and
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after her/his credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 100-010 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after her/his credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 100-007.05G.

100-007.05A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department to investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§ 71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

100-007.05B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

100-007.05C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

100-007.05D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

100-007.05E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

100-007.05E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

100-007.05E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

100-007.05F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

100-007.05G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

100-007.05G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;

- c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

100-007.05G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;

- d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

100-007.05G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

100-007.06 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

100-007.06A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. § 71-161.11 may be restored at the discretion of the Department.

100-007.06A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

- 1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;

- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
- f. Any continuing competency activities; and
- g. Attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

100-007.06A2 If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 100-010;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

100-007.06A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while her/his credential was voluntarily surrendered or limited, the Department may:

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1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

100-007.06A4 In either event pursuant to 172 NAC 100-007.06A2 or 100-007.06A3, a notice and the opportunity for hearing will be given to the applicant.

100-007.06A5 The Department will act within 150 days on all completed applications.

100-007.07 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

100-007.07A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

100-007.07B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 100-010.

100-007.08 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

100-008 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

100-008.01 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against licenses for any of the acts or offenses set forth in Neb. Rev. Stat. §§ 71-147 and 71-148 of the Uniform Licensing Law.

100-008.02 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against licenses for unprofessional conduct, which term includes but is not limited to:

1. Misappropriating medications, supplies, or personal items of a patient or agency;
2. Violating the confidentiality of information or knowledge concerning the patient.
3. Committing any act which endangers patient safety or welfare;
4. Failure to seek consultation and collaboration or failure to refer a patient when warranted by patient condition;
5. Practice of the profession without a current active license or temporary permit;
6. Failure of a licensee, who is subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents;
7. Falsification or misrepresentation of material facts in attempting to procure employment as an APRN;

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8. Intentional falsification of material facts in a material document connected with the practice of advanced practice nursing;
9. Kissing, fondling, touching or engaging in any other activities of a sexual nature with a patient; and
10. Violating any term of probation, condition, or limitation imposed on the licensee by the Department.

100-009 SCHEDULE OF FEES

100-009.01 The following fees have been set by the Department by this regulation to be paid as a condition of issuance of licensure.

1. Initial License Fee: By an applicant for a license to practice as an APRN, the fee of \$100. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1 for each year remaining in the current biennial renewal period.
2. Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.
3. License Renewal Fee: By an applicant for renewal of a license to practice as an APRN, the fee of \$75. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$2.
4. Reinstatement from Lapsed Status Fee: By an applicant for reinstatement from lapsed status of a license to practice as an APRN, the fee of \$25 in addition to the renewal fee.
5. Reinstatement Following Discipline Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.
6. Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:
 - a. The basis on which the license was issued;
 - b. The date of issuance;
 - c. Whether disciplinary action has been taken against the license; and
 - d. The current status of the license.
7. Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether the license was valid at the time the request was made.
8. Duplicate License Fee: For a duplicate of an original license document or reissued license, a fee of \$10.
9. Late Fee: By an applicant for renewal on a biennial basis of a license who fails

to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

10. Administrative Fee: For a denied license or a withdrawn application, an administrative fee of \$25 will be retained by the Department.

100-010 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practiced without a license. Practice without a license for the purpose of this regulation means practice:

1. Prior to the issuance of a license;
2. Following the expiration of a license; or
3. Prior to the reinstatement of a license.

100-010.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaging in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a practice site and announces or advertises that the site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact is presumed to be true unless disproved by some evidence to the contrary.

100-010.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.

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2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

100-010.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department must hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's Rules of Practice and Procedure.

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 101 PRACTICE OF NURSING

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 101 PRACTICE OF NURSING

101-001 SCOPE AND AUTHORITY: These regulations govern the practice of nursing in the State of Nebraska. Statutory authority for these regulations is Neb. Rev. Stat. §§ 71-147 to 71-148, 71-150 to 71-162.05, 71-164.01, 71-172.02, 71-1,132.01 to 71-1,132.53, and 71-1795. The Department of Health and Human Services Regulation and Licensure is the state's regulatory body responsible for issuing nursing licenses.

101-002 DEFINITIONS

Academic courses means all formal course work required in a nursing program, directly related to nursing and current nursing practice.

Act means Neb. Rev. Stat. §§ 71-1,132.01 to 71-1,132.53, known as the Nurse Practice Act.

Advisory opinion means a statement or judgment regarding nursing practice issues given by the Board based upon their belief and knowledge. Such an opinion is considered informational only and is non-binding.

Approved program of practical nursing means a nursing program that meets the requirements or is substantially equivalent to the requirements set forth in 172 NAC 97.

Approved program of registered nursing means a nursing program that meets the requirements or is substantially equivalent to the requirements set forth in 172 NAC 97.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Audit means the random selection of licensees for verification of satisfactory completion of continuing competency requirements during a specified time period.

Board means the Board of Nursing.

Certificate means a formal document awarded by the provider of continuing education showing that the participant has satisfactorily completed the course or offering.

Certificate holder means a person who has a state-issued certificate such as an LPN-C.

Certification of licensure means attesting to the current status of an individual's license, any disciplinary action taken, and the means by which the individual was licensed including examination scores, if applicable.

CGFNS - Commission on Graduates for Foreign Nursing Schools is the organization that assists foreign educated nurses seeking licensure in the United States through transcript evaluation and administration of a qualifying examination which tests English proficiency and readiness to take the NCLEX-RN® examination. Candidates who pass the CGFNS examination are issued a document referred to as a CGFNS certificate.

Compact state means a state that is a party state under the provisions of the Nurse Licensure Compact.

Continuing competency means the ability of a nurse to apply interpersonal, technical, decision-making, and psychomotor skills at the level of knowledge expected for the nurse's current nursing practice role.

Completed application means an application that includes all of the information requested on the application verified with the applicant's oath, and that is submitted with the required fees and all required documentation.

Continuing education means planned, organized, systematic, and evaluative educational experiences designed to maintain or enhance the knowledge, skills, and/or attitudes of nurses for nursing practice, education, administration, and/or research for the purpose of improving health care to the public. Continuing education includes, but is not limited to a variety of forms of learning experiences, such as lectures, conferences, academic studies, institutes, seminars, workshops, extension studies, and independent study programs which may or may not be formally peer reviewed and approved. Continuing education does not include orientation, inservice education or on-the-job training.

Continuing education offering means a single continuing education activity that may be presented once, or repeated.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Expired license means the date on which the license expires has passed.

Focused continuing education means selection of programs that relate to the nurse's individual goals for professional development.

Graduate means an individual who has completed an educational program and has fulfilled all of the requirements for graduation from that program.

Home state means the state the licensee has declared as her or his primary state of residence.

Hour, as it relates to continuing education, means at least 50 minutes of participation in an organized learning experience, otherwise known as a "contact hour."

IELTS means the International English Language Testing System.

Inactive status means the designation given to a licensee who requests this status and pays the fee. A licensee on inactive status is issued a card indicating their inactive status.

Independent study course means continuing education courses offered for individual, self-paced study.

Inservice education means activities intended to help nurses acquire, maintain, and/or increase the level of competence in fulfilling his or her assigned responsibilities specific to the expectations of the employer.

Lapsed status means the designation given to a licensee who requests this status, a licensee who was previously licensed in Nebraska and whose primary state of residence is now another compact state, or to a licensee who fails to meet the renewal requirements.-

Licensed by endorsement means the granting of active status and the authority to practice to an individual who has been licensed in another jurisdiction and who meets the Nebraska licensure requirements.

Licensed by examination means the authority to practice is based on having passed the licensing (NCLEX®) examination.

Licensed practical nurse (LPN) means an individual who has graduated from an approved practical nursing program, passed the NCLEX-PN® or State Board Test Pool Examination and holds a current license or has the authority based on the Nurse Licensure Compact to practice as a licensed practical nurse in Nebraska.

Licensed practitioner means a person lawfully authorized to prescribe medications or treatments.

Limited license means that certain restrictions have been imposed on the individual's authority to practice.

Multi-state license or multi-state privilege means the licensee has declared a compact state as her or his primary state of residence and is entitled to practice in any compact state unless action has been taken to limit or remove the multi-state authority. The licensee is subject to the statutes, rules, and regulations of the state in which the nurse is practicing.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 101.

National Council means the National Council of State Boards of Nursing.

NCLEX-PN® means the National Council Licensure Examination for Practical Nurses. This examination is the accepted examination for practical nursing licensure in this state.

NCLEX-RN® means the National Council Licensure Examination for Registered Nurses. This examination is the accepted examination for registered nursing licensure in this state.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

Nursing practice, for purposes of meeting requirements for license renewal, means the application of judgment and skill based upon a systematized body of nursing knowledge that is performed as employment or volunteer.

Nursing practice committee means a standing committee of the Board of Nursing that is composed of members of the Board.

Nursing practice consultant means a registered nurse staff member of the Department as defined in the Act.

Nursing program means an approved educational program which prepares persons for licensure as a practical or registered nurse: a baccalaureate in nursing completion program for RNs; a masters' degree program in nursing; a nursing doctoral program; a nurse anesthetist program; an advanced practice registered nurse program; or a nurse midwifery program.

Nursys™(Nurse System) is an information system maintained by the National Council that contains nurse license and license discipline information that is provided by boards of nursing in the United States and its territories. Nursys™ receives regular updates of nurses' personal (name, address, etc.) and license information from participating boards of nursing .

Official record means a document that carries the seal, signature or other notation indicating that the document was issued by the primary source.

Official transcript means a transcript issued by and under the original seal of the educational institution.

On-the-job training means informal instruction given by an employer to acquaint an employee with performance expectations related to a given task.

Orientation means the method by which nursing staff are introduced to the philosophy, goals, policies, procedures, role expectations, and other factors needed to function in a specific work setting. Orientation socializes nursing staff members, introducing them to the organization's culture. Orientation is provided at the time of employment and at other times when changes in roles and responsibilities occur in a specific work setting.

Peer reviewed and approved means programs, offerings, and independent studies that are either provided by an approved/accredited provider or approved by an approved/accredited approver.

Practiced nursing for a period of five years means performing nursing practice activities as a licensed nurse for a minimum of 500 hours during the five year period immediately preceding the current renewal period.

Practicum means a course related, planned and supervised clinical experience, which includes clinical objectives and assignments to practice in a laboratory setting or with patients/clients for attainment of the objectives.

Primary state of residence means the state of a person's declared, fixed, permanent, and principal home for legal purposes and domicile. Indicators of a domicile include: where real property is located, where the person pays state taxes, votes, is licensed to operate a motor vehicle, and other similar actions or occurrences.

Probation means that the individual's authority to practice is contingent on the licensee meeting specified conditions.

Refresher course means a planned program of study (a systematic learning experience) which provides a review of basic knowledge and skills. The focus of a refresher course is the enhancement of clinical competency.

Registered nurse (RN) means an individual who has graduated from an approved program with an associate degree, diploma, or baccalaureate degree in nursing, has passed the NCLEX-RN® or State Board Test Pool Examination and holds a current license or has the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska.

Reinstatement means the return to active status and the restoration of the authority to practice to a licensee who was previously licensed in this state.

Review course of study means an organized approach to learning that results in current knowledge related to one or more areas of nursing practice. Such courses include approved refresher courses and self-designed refresher courses.

Revoked means the licensee's or certificate holder's authority to practice has been removed as a result of disciplinary action.

State Board Test Pool Examination (SBTPE) means the nationally accepted licensure examination for nurses that was the basis for RN licensure in Nebraska between 1953 and 1981 and LPN licensure between 1956 and 1981.

Suspended means the licensee's authority to practice has been temporarily removed as a result of disciplinary action.

TOEFL means the Test of English as a Foreign Language.

TOEIC means the Test of English for International Communication.

Verification means attesting to the current status of an individual's license.

101-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person who practices as a registered or practical nurse in Nebraska must hold a Nebraska license or a temporary permit or must hold a multi-state privilege in accordance with the Nurse Licensure Compact. This requirement does not prohibit persons identified in Neb. Rev. Stat. §§ 71-1,132.06(1)-(6) and 71-1,132.30 from practicing nursing as limited by those subsections.

101-003.01 Licensure by Examination

101-003.01A Requirements for Licensure as a Practical Nurse (PN) or a Registered Nurse (RN) by Examination: An applicant for a license to practice on the basis of an examination must:

1. Be of good moral character;
2. Have completed four years of high school study or its equivalent as determined by the Board. The completion of an approved RN or PN program is sufficient evidence of having completed the equivalent of four years of high school study;
3. Have completed the basic curriculum in an approved program of practical nursing (for LPN licensure) or registered nursing (for LPN or RN licensure) and hold a diploma therefrom;
4. Pass the NCLEX-PN® (for LPN licensure) or the NCLEX-RN® (for RN licensure) ; and
5. Pass the following before s/he will be allowed to take the NCLEX® examination if a graduate of a foreign nursing program:
 - a. Graduates from non-English speaking practical nursing education programs must pass either the TOEFL paper version with a minimum score of 560, the TOEFL computer version with a minimum score of 220, the TOEFL internet version with a minimum score of 83, the IELTS academic version with an overall score of 6.5 and a minimum of 6.0 on all modules, or the TOEIC with a minimum score of 780;
 - b. Graduates of foreign registered nursing programs must pass either the English version of the Canadian Nurses Association licensure examination or the CGFNS examination.

101-003.01B Submissions Required with Licensure Examination Application

101-003.01B1 Applicants for licensure by examination must submit the following to the Department:

1. A written application which:
 - a. Is verified by the applicant's oath; and
 - b. Contains the following information about the applicant:
 - (1) Name;
 - (2) Address;

- (3) Gender;
 - (4) Date of birth;
 - (5) Place of birth;
 - (6) Social Security number;
 - (7) Name and location of basic nursing program;
 - (8) Primary state of residence;
 - (9) A statement describing all:
 - (a) Pending charges which could result in a felony or misdemeanor conviction;
 - (b) Felony or misdemeanor convictions (this does not include minor traffic violations);
 - (c) Denials, discipline, or pending discipline of a license in any health care profession;
 - (d) Denials of admission to take a licensing examination in any health care profession;
 - (10) The name, address and telephone number of two licensed nurses who:
 - (a) Are not related to the applicant;
 - (b) Have known the applicant for at least one year; and
 - (c) Will affirm the applicant's moral character; and
 - (11) An identification of all instances in which s/he has applied or written the NCLEX® licensing examination in any state, territory, or country;
2. An official transcript from an approved program of practical or registered nursing (for LPN applicants) or registered nursing (for RN applicants) showing graduation from the program. The transcript must be sent by the program or by CGFNS to the Department;
 3. A recent, clear, autographed, billfold-size, head and shoulder photograph of the applicant;
 4. Scores from TOEFL, TOEIC, IELTS, CGFNS, or the Canadian Nurses Association licensure examination if applicable according to 172 NAC 101-003.01A5a or 172 NAC 101-003.01A5b; and
 5. The required licensure fee.

101-003.01B2 Additional Requirements for Certain Applicants

101-003.01B2a The following applicants must provide additional information to the Department:

1. Persons with pending charges which could result in a felony or misdemeanor conviction;
2. Persons who have been convicted of a felony or misdemeanor (this does not include minor traffic violations); and
3. Persons whose license to practice in a health care profession

has been denied or disciplined or is pending discipline.

101-003.01B2b These certain applicants must submit the following to the Department:

1. A full explanation of the pending charges, conviction, denial, disciplinary action, or pending disciplinary action; and
2. Official records as requested by the Department related to the conviction, denial or discipline, for example: probation reports, court records, licensure disciplinary reports, or chemical dependency evaluation.

101-003.01B2c The Department or the Board may require these applicants to undergo an interview by Department staff or the Board in order to clarify or amplify information contained in the official record.

101-003.01C NCLEX® Requirements for Licensure by Examination

101-003.01C1 Applicants for licensure by examination must submit a completed NCLEX® examination application and the required fee directly to the testing service of the National Council at the address provided by the Department.

101-003.01C2 To be eligible to take the NCLEX® examination, applicants must meet all of the requirements for licensure pursuant to 172 NAC 101-003.01A items 1-3 and 5.

101-003.01C3 Applicants must take the examination within 90 days of receiving authorization to test.

101-003.01C4 The Department will provide applicants with written notification of examination results within ten working days of receipt of the results.

101-003.01C5 The Department will:

1. Issue a license to an applicant who passes the examination provided s/he has met the requirements for licensure in 172 NAC 101-003.01A;
2. Deny a license to an applicant who does not pass the examination in accordance with Neb. Rev. Stat. § 71-1,132.29; and
3. Send to the applicant who does not pass the examination:
 - a. Examination results,
 - b. Notice of examination review, and
 - c. Instructions on how to retake the examination.

101-003.01C6 An applicant who did not pass the examination and wishes to retake the examination, must resubmit:

1. An application to the Department, verified by the applicant's oath;
2. The required licensure fee to the Department;
3. An examination application to the testing service of the National Council; and

4. The examination fee to the testing service of the National Council.

101-003.01C7 Upon request and payment of the required fee, an applicant who failed the examination may review the failed items per procedure of the National Council of State Boards of Nursing.

101-003.01D The Department may issue a temporary permit to a graduate from a registered nursing or practical nursing program in Nebraska that has been approved by the Board after the graduate has successfully passed the NCLEX® examination, pending completion of the application for licensure in accordance with 172 NAC 101-003.01B and after the graduate has submitted the following to the Department:

1. An application for licensure;
2. Documentation of graduation from an approved nursing program in Nebraska;
3. A recent, clear, autographed, billfold-size, head and shoulder photograph of the applicant; and
4. The required fee.

101-003.01D1 For purposes of issuing a temporary permit following the successful completion of the examination, the Department will accept a completion letter from the program director that is written, dated, and delivered after the actual graduation date.

101-003.01D2 The Department will issue a temporary permit for 60 days. It is valid until the license is issued or until a final decision is made to deny the license. Temporary permits may be extended by the Department with the concurrence of the Board.

101-003.01D3 Persons holding valid temporary permits pursuant to this section are entitled to use the designation Registered Nurse (RN) or Licensed Practical Nurse (LPN).

101-003.01D4 Persons holding a temporary permit who have declared Nebraska as their primary state of residence are entitled to the multi-state privilege.

101-003.01E The Department will act within 150 days upon all completed applications for licensure.

101-003.01F If the Department denies issuance of a license or issues a limited license, the Department will give the applicant an opportunity for an administrative hearing before the Department conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

101-003.02 Licensure by Endorsement

101-003.02A Requirements for Licensure as a Practical Nurse or a Registered Nurse by Endorsement: An applicant for a license to practice based on a license in another jurisdiction must:

1. Be of good moral character;
2. Have completed four years of high school study or its equivalent as determined by the Board. The completion of an approved RN or PN program is sufficient evidence of having completed four years of high school study;
3. Have completed the basic curriculum in an approved program of practical or registered nursing for LPN licensure or registered nursing for RN licensure and hold a diploma therefrom;
4. Be currently or previously licensed in another state or jurisdiction;
5. Meet one of the following practice requirements for continuing competency:
 - a. Graduated from an approved nursing program within the previous five years;
 - b. Practiced nursing for a minimum of 500 hours within the previous five years;
 - c. Completed a Board-approved review course of study within the previous five years;
6. Have taken and passed the NCLEX® or the SBTPE:
 - a. For a registered nurse applicant initially licensed after September 14, 1953, evidence of having written and passed:
 - (1) The SBTPE in Medical, Surgical, Maternity, Psychiatric Nursing, and Nursing of Children with a minimum score of 350 in each subject area; or
 - (2) The NCLEX-RN® with a minimum score of 1600 or “pass”;
 - b. For registered nurses initially licensed before September 14, 1953, an examination substantially equivalent to the examination required in Nebraska at the time s/he was licensed, if any;
 - c. For a licensed practical nurse applicant initially licensed after January 1, 1956, evidence of having written and passed:
 - (1) The SBTPE with a minimum score of 350; or
 - (2) The NCLEX-PN® with a minimum score of 350 or “pass”;
 - d. For licensed practical nurses initially licensed before January 1, 1956, an examination substantially equivalent to the examination required in Nebraska at the time s/he was licensed, if any.

101-003.02A1 An applicant changing primary state of residence from another compact state to Nebraska may continue to practice under the former home state license and multi-state licensure privilege during the processing of the nurse’s licensure application in Nebraska for a period not to exceed 30 days.

101-003.02A1a The licensure application in Nebraska of a nurse under pending investigation by the former home state will not be acted upon and the applicant may not practice in Nebraska until resolution of the pending investigation.

101-003.02B Submissions Required with Licensure by Endorsement Application

101-003.02B1 Applicants for licensure by endorsement must submit the following to the Department:

1. A written application which:
 - a. Is verified by the applicant's oath; and
 - b. Contains the following information about the applicant:
 - (1) Name,
 - (2) Address,
 - (3) Gender,
 - (4) Date of birth,
 - (5) Place of birth,
 - (6) Social Security number,
 - (7) Name and location of basic nursing program, and
 - (8) Primary state of residence.
 - (9) A statement describing any
 - (a) Pending charges which could result in a felony or misdemeanor conviction;
 - (b) Felony or misdemeanor convictions (this does not include minor traffic violations);
 - (c) Denial, discipline, or pending discipline of a license in any health care profession;
 - (d) Denial of admission to take a licensing examination in any health care profession.
 - (10) The name, address and telephone number of two licensed nurses who:
 - (a) Are not related to the applicant;
 - (b) Have known the applicant for at least one year; and
 - (c) Will affirm the applicant's moral character.
 - (11) State of original licensure and list of all other states of current or previous licensure;
 - (12) Name and location of licensing examination;
 - (13) Identification of which practice requirement for continuing competency has been met.
2. An official transcript from an approved program of practical or registered nursing (for LPN applicants) or registered nursing (for RN applicants) showing graduation from the program. The transcript must be sent by the program or by CGFNS to the Department;
3. Certification of having passed the NCLEX® or SBTPE from the applicant's original jurisdiction of licensure or from Nursys™; and
4. The required licensure fee.

101-003.02B2 Additional Requirements for Certain Applicants

101-003.02B2a The following applicants must provide additional information to the Department:

1. Persons with pending charges which could result in a felony or misdemeanor conviction;
2. Persons who have been convicted of a felony or misdemeanor (this does not include minor traffic violations); and
3. Persons whose license to practice in a health care profession has been denied or disciplined or is pending discipline.

101-003.02B2b These applicants must submit the following to the Department:

1. A full explanation of the pending charges or conviction, denial, disciplinary action, or pending disciplinary action; and
2. Official records as requested by the Department related to the conviction, denial or discipline, for example: probation reports, court records, licensure disciplinary reports, or chemical dependency evaluation.

101-003.02B2c The Department or the Board may require these applicants to undergo an interview by Department staff or the Board in order to clarify or amplify information contained in the official record.

101-003.02C The Department may issue a temporary permit in accordance with Neb. Rev. Stat. § 71-1,132.16(3) to a nurse currently licensed in another state or jurisdiction as a registered or practical nurse, if the nurse has:

1. Submitted a completed application, verified by the applicant's oath, for licensure;
2. Documented a current license in another state; and
3. Submitted the required licensure fee.

101-003.02C1 The temporary permit will be issued for 60 days or until the expiration date of the current license in the other state, whichever occurs first. The permit may be extended by the Department with the concurrence of the Board. The temporary permit becomes null and void if the license is issued or a final decision is made to deny the license.

101-003.02C2 The Department will accept as documentation of a current license in another state:

1. An official certification record from the other state or jurisdiction;
2. Certification of licensure obtained through NursysTM; or
3. A notarized copy of a current license in another state or jurisdiction.

101-003.02C3 Persons holding valid temporary permits pursuant to this section are entitled to use the designation Registered Nurse (RN) or Licensed Practical Nurse (LPN).

101-003.02C4 Persons holding a temporary permit who have declared Nebraska as their primary state of residence are entitled to the multi-state privilege.

101-003.02D Persons currently or previously licensed in another state or jurisdiction who have not graduated or practiced nursing for at least 500 hours within the past five years immediately preceding the date of application and who wish to enroll in a review course of study approved by the Board in order to obtain licensure pursuant to Neb. Rev. Stat. § 71-1,132.16(1) and who meet all the other requirements for licensure in Nebraska may be issued a temporary permit after submitting the following to the Department:

1. A completed application;
2. Written validation from the institution conducting the review course of study of the duration of the course and that the individual has applied and been accepted for the course. For an individually designed review course, written validation of the dates of the clinical practice may be submitted from the supervising/collaborating nurse;
3. Documentation of current or previous licensure in another state or jurisdiction. Acceptable documentation consists of:
 - a. Official certification record from another state or jurisdiction or from NursysTM; or
 - b. A notarized copy of a wall or wallet license from another state or jurisdiction; and
4. The required licensure fee.

101-003.02D1 The temporary permit issued pursuant to this section:

1. Is valid only for clinical practice undertaken as part of the approved course;
2. Requires such practice to be supervised by a licensed registered nurse; and
3. Entitles the holder to use the designation RN or LPN.

101-003.02E The Department will act within 150 days on all completed applications for licensure.

101-003.02F If the Department denies issuance of a license or issues a limited license, the Department must give the applicant an opportunity for an administrative hearing before the Department conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

101-003.03 Requirements for Licensure Pursuant to the Nurse Licensure Compact

101-003.03A Applicants for licensure by examination, endorsement, renewal, and reinstatement must declare, in writing, a primary state of residence.

101-003.03B The Department will issue a multi-state license to an applicant declaring Nebraska as her or his primary state of residence. The Department will issue a single

state Nebraska license to an applicant declaring a non-compact state as her or his primary state of residence.

101-003.03B1 When a licensee changes her or his primary state of residence from Nebraska to a non-party state, the multi-state privilege becomes invalid. Upon notification of the change in primary state of residence, the Department will issue a single state license.

101-003.03B2 When a licensee changes her or his primary state of residence from Nebraska to another compact state, her/his Nebraska license becomes invalid.

101-003.03C An applicant who changes her or his primary state of residence from another compact state to Nebraska may continue to practice on the multi-state privilege from her or his former home state for 30 days pending completion of her/his Nebraska licensure application. The former home state license is no longer valid upon the issuance of the Nebraska license.

101-003.03D If the Department denies the issuance of a license, the Department will notify the former home state within ten business days.

101-003.03E An applicant who is the subject of an order of probation or other disciplinary action that limits practice or requires monitoring must not practice in Nebraska on a multi-state privilege without prior authorization from the Department and the home compact state.

101-004 CONTINUING COMPETENCY

101-004.01 For purposes of license renewal, the applicant must document continuing competency by having:

1. Graduated from an approved nursing program within the previous two years;
2. Graduated from an approved nursing program in more than two but less than five years AND have completed 20 contact hours of inservice/continuing education within the last two years;
3. Practiced nursing for a minimum of 500 hours within the last five years AND have completed 20 contact hours of inservice/continuing education within the last two years;
4. Completed a Board-approved review course of study consisting of a minimum of 75 contact hours approved by the Board within the last five years;
5. Obtained/maintained current certification in a nursing specialty granted by a nationally recognized certifying organization; or
6. Developed and maintained a portfolio that includes the licensee's current continuing competency goals and evidence/verification of professional activities to meet those goals. Such evidence may include, but not be limited to, specialized training or experiences, continuing education, employer performance evaluation, or other evidence of demonstrated competency.

101-004.02 Responsibilities of the Licensee in Relation to Continuing Competency

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1. A licensee must maintain in his or her personal file such certificates of continuing education, records of credit from academic institutions, records of work hours, and/or completion of review courses for seven years and must submit these certificates to the Board when requested.
2. A licensee must attend the complete continuing education offering in order to report it for credit. Partial credit may be awarded by the provider of the continuing education event.
3. A licensee has a responsibility to identify her or his professional development goals and to participate in focused continuing education and other activities to maintain competent nursing practice.

101-004.03 Acceptable Continuing Education/Inservice Education: Continuing education may serve as one component of the professional development activities that the nurse participates in to maintain continuing competency. The 20 hours of continuing education/inservice education must include:

1. At least 10 hours that are formally peer reviewed and approved continuing education; and
2. No more than 4 hours of CPR or BLS courses.

101-004.03A Contact Hour Equivalencies

1. One academic semester hour is equal to 15 contact hours. For example, an approved 3 credit hour course would provide 45 contact hours of continuing education credit.
2. One academic quarter hour is equal to 10 contact hours. For example, an approved 3 credit hour course would provide 30 contact hours of continuing education credit.
3. One continuing education unit (CEU) is equal to 10 contact hours.
4. Each hour of theory will be accepted as 1 contact hour of continuing education.
5. Each hour in course related clinical practice or laboratory practicum will be accepted as 1 contact hour of continuing education.

101-004.03B The Board of Nursing does not pre-approve offerings, but may accept as continuing education for reinstatement of a license or for license renewal the following learning experiences:

1. Academic courses in an accredited post-secondary institution which are related to the specific knowledge and/or technical skills required for the practice of nursing.
2. Independent/self-study nursing courses that have been assigned contact hours.
3. Courses or offerings related to the scientific knowledge for the practice of nursing including basic and advanced courses in the physical, social, and behavioral sciences. These courses include but are not limited to: anatomy and physiology, chemistry, growth and development, microbiology, nursing ethics, nutrition, pharmacology, psychology, and sociology.

4. Courses or offerings related to the application of scientific knowledge to patient care including but not limited to:
 - a. Advanced nursing courses;
 - b. Death, dying, and grief;
 - c. Human sexuality;
 - d. Nursing courses related to specialty areas of nursing practice;
 - e. Teaching or learning process of health care, to include patients or their significant others, students, or personnel in the health care field;
 - f. Therapeutic interpersonal relationship skills including communication/language skills; and
 - g. Courses related to alternative therapies.
5. Courses or offerings with the subject area related to at least one of the following components of nursing:
 - a. Maintenance of mental and physical health;
 - b. Prevention of illness, injury, or infirmity;
 - c. Management, teaching, and counseling;
 - d. Identifying human responses to actual and potential health conditions;
 - e. Identifying nursing needs of individuals, families, or groups;
 - f. Executing nursing treatment regimen through the selection, performance, and management of proper nursing practices;
 - g. Administering, supervising, delegating, and evaluating nursing activities to include quality assessment and quality improvement activities;
 - h. Teaching nurses, patients, and families;
 - i. Teaching health care practices;
 - j. Counseling about health;
 - k. Case findings and case management;
 - l. Referral to other resources concerning health;
 - m. Current issues affecting the practice of nursing;
 - n. Research; and
 - o. Administration of medications and treatments.
6. Courses which are required as part of a formal nursing program.
7. Courses or offerings in nursing administration, nursing theories, management, health policy, ethics, professional issues, education, research, legal aspects, or other functional areas of nursing related to indirect patient/client care.
8. Courses or offerings that have been approved by other State Boards of Nursing and/or national nursing organizations except for those listed in 172 NAC 101-004.04.
9. Acceptable courses may be taken in a conventional classroom setting or through a mediated learning system. This includes educational television,

audio or video cassettes, printed media, computer assisted learning and/or independent study.

10. Cardiopulmonary Resuscitation (CPR), Basic Life Support (BLS), Basic Cardiac Life Support (BCLS), Advanced Cardiac Life Support (ACLS), Neonatal Resuscitation Program (NRP), Pediatric Advanced Life Support (PALS), Advanced Burn Life Support (ABLS), and Advanced Trauma Life Support (ATLS). CPR and BLS are limited to 20 percent of required continuing education hours (4 hours of the required 20 hours).

101-004.04 Non-Acceptable Continuing Education: Continuing education that is not acceptable to be applied to license renewal includes:

1. CPR, BLS (see 172 NAC 101-004.03B10) beyond the 20 percent of required continuing education hours (4 hours of the required 20 hours).
2. Computer courses unless they are a part of a formal nursing program.
3. Business communications.
4. Medical terminology.
5. Courses or offerings which deal with personal self-improvement, financial gain, or career options.
6. Offerings designed for lay persons (other than those listed in 172 NAC 101-004.03B10).
7. Teaching, conducting research, or publications, nor any preparation for same. (These activities can be applied toward the practice hour requirement for license renewal. Such acts will count toward meeting renewal requirements only if they meet the definition of the practice of nursing.)
8. Offerings less than 30 minutes in duration.
9. On-the-job training.
10. Orientation programs, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.
11. Other educational or quasi-educational activities that are not sufficiently professional in character to reasonably qualify as continuing education.

101-004.05 Acceptable Nursing Practice Hours: The practice of nursing includes those activities that are performed either for compensation or gratuitously that demonstrate the application of judgment or skill based upon a systematized body of nursing knowledge as defined in Neb. Rev. Stat. § 71-1,132.05 (7).

101-004.06 Review Courses of Study: These planned and approved courses are intended to provide learning experiences for nurses who have not practiced for five or more years and result in current knowledge in one or more areas of nursing. There are two types of Review Courses of Study: Approved Refresher Courses and Self-Designed Refresher Courses.

101-004.06A Approved Refresher Course

101-004.06A1 Refresher courses must be approved, initially and annually, by the Board.

101-004.06A2 Any agency providing a refresher course must submit the course objectives, outline, content, and list of instructors for Board approval prior to offering the course and by October 1st of each year for ongoing courses.

101-004.06A3 The Board will review the course for approval prior to January 1st of each calendar year.

101-004.06A4 For a course to qualify for Board approval, it must:

1. Have 45 or more contact hours of theory and 30 or more contact hours of clinical;
2. Identify passing scores;
3. Be coordinated by a registered nurse; and
4. Include an evaluation of the applicant's performance by one of the following methods:
 - a. Written examination(s);
 - b. Clinical skills check list;
 - c. Student and teacher evaluation for applicant's achievement of course objectives; or
 - d. Other methods which adequately assess the applicant's achievement of course objectives.

101-004.06A5 In order to pass a refresher course, the applicant (RN or LPN) must demonstrate the ability to:

1. Identify health problems of individuals and groups;
2. Initiate nursing interventions related to health problems of individuals and groups as related to:
 - a. Maintaining health status;
 - b. Preventing illness, injury, and infirmity;
 - c. Improving health status;
 - d. Providing supportive care; and
 - e. Providing restorative care;
3. Utilize the nursing process in accordance with Title 172 NAC 99, Provision of Nursing Care;
4. Safely deliver nursing care to a group of patients;
5. Safely carry out the diagnostic and therapeutic regimens of duly licensed practitioners authorized to so order such regimens;
6. Perform or apply content of the refresher course that includes the following:
 - a. Charting, documentation, and record keeping;
 - b. Communication principles;
 - c. Health care delivery system;
 - d. IV therapy including assessment of fluid and electrolyte status;
 - e. Legal, ethical, and professional issues in nursing;
 - f. Nursing assessment;
 - g. Nursing process, including nursing history, nursing diagnosis, and nursing care planning;
 - h. Nursing roles;
 - i. Patient and staff teaching;

- j. Quality assurance including nursing care evaluation;
- k. Regulations update;
- l. Selective skills update;
- m. Standards of nursing practice; and/or
- n. Other related study.

101-004.06A6 The agency providing the refresher course must have a policy that provides for the instructing/supervising registered nurse to provide documentation to the Department that the applicant is able to perform safe nursing practice. The instructing/supervising registered nurse must base the evaluation on the methods listed in 172 NAC 101-004.06A4(4).

1. The agency providing the refresher course must provide documentation of successful completion of the refresher course to the applicant.
2. The agency providing the refresher course must document unsuccessful completion of the refresher course and must maintain supporting documents for seven years.

101-004.06B Self- Designed Refresher Course is designed to focus study on a specific area of nursing practice selected by the applicant. The application must include a statement identifying a focus area of study and include a plan for the following:

1. 45 or more contact hours of theoretical/didactic review activities, including the objectives/goals for this portion of the course;
2. 30 or more contact hours of clinical practice (actual experience in the selected role), including the objectives/goals for this portion of the course. The clinical experience must be supervised by or performed in collaboration with a registered nurse currently licensed in the jurisdiction of the clinical experience. The course plan must include provisions for the supervising/ collaborating nurse to evaluate the applicant's achievement of objectives/goals of the clinical experience; and
3. A mechanism for self evaluation of the extent to which the course met the learning objectives/goals of the applicant.

101-004.06B1 Nursing courses with a clinical component offered by an approved nursing program may be submitted for approval as a self-designed refresher course.

101-004.06B2 The Board will act to approve or deny the plan which the applicant has submitted within 150 days of submission.

101-004.06C Upon completion of any review course of study, the applicant must submit documentation of successful completion of the course.

101-005 PROCEDURES FOR RENEWAL OF A LICENSE: All registered nurse licenses issued by the Department pursuant to the Act and 172 NAC 101 expire on October 31 of each even-numbered year. All practical nurse licenses issued by the Department pursuant to the Act and 172 NAC 101 expire on October 31 of each odd-numbered year.

101-005.01 Waiver of Continuing Competency Requirements: The Department, with the concurrence of the Board, may waive continuing education/in-service requirements for any two-year licensing period when a licensee submits documentation that circumstances justify such a waiver. Waivers may be requested and granted for the following reasons:

1. If in the military and assigned to a location where in-service education/continuing education is not available;
2. If living outside of the USA and in-service education/continuing education is not available; or
3. If serving as a missionary in a foreign country.

101-005.01A A waiver of the in-service/continuing education requirement includes a waiver of the audit of same.

101-005.01B The practice requirement will not be waived.

101-005.02 Renewal Process: Any licensee who wishes to renew her/his license must:

1. Meet the continuing competency requirements as pursuant to 172 NAC 101-004;
2. Pay the renewal fee as prescribed in 172 NAC 009;
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?

These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date;

4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the continuing competency requirements within 24 months of the date of expiration or application for waiver of continuing competency. Attestation of meeting continuing competency requirements satisfies requirements for documentation of continuing competency.
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;

- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

101-005.03 First Notice: On or before August 1 of even-numbered years for registered nurses and odd-numbered years for practical nurses, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

101-005.03A The renewal notice will specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 101-009;
6. The attestation of continuing competency;
7. The option to place the license on either inactive or lapsed status; and
8. The attestation of primary state of residence.

101-005.03B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's Social Security number;
4. Attestation of meeting the continuing competency requirements within the required time period or application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

101-005.03C If the licensee wishes to place her/his license on either inactive or lapsed status s/he must:

1. Request that her/his license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that her/his license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

101-005.03D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

101-005.03E A licensee whose license is on lapsed or inactive status must not practice in this state unless his/her primary state of residence is another compact state and s/he has the authority to practice pursuant to the Nurse Licensure Compact.

101-005.04 Second Notice: The Department will send to each licensee who fails to renew her/his license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 101-005.03 that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That the licensee is subject to an administrative penalty pursuant to 172 NAC 101-010 if s/he practices after the expiration date;
5. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency within that time, the license will be not be placed on lapsed status; and
6. That upon failure to receive \$25 in addition to the renewal fee, and documentation of continuing competency, the license will be lapsed.

101-005.04A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's Social Security number;
4. Attestation by the licensee:
 - a. That s/he has not practiced in Nebraska since the expiration of her/his license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of meeting the continuing competency requirements within the required time period or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

101-005.04A1 If the licensee wishes to place her/his license on either inactive or lapsed status s/he must:

1. Request that her/his license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that her/his license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

101-005.04A2 The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

101-005.04B When a licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically lapse the license without further notice or hearing and make proper record of the lapsed status.

101-005.04C When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 101-005.04B will not apply.

101-005.04D The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-150 to 71-155 and the Department's Rules of Practice and Procedure.

101-005.04E An individual who practices after expiration of her/his license, is subject to assessment of an administrative penalty pursuant to 172 NAC 101-010, or such other action as provided in the statutes and regulations governing the license.

101-005.05 Audit of License Renewal Applications

101-005.05A The Board may randomly select a sample of license renewal applications for audit of continuing competency requirements following each renewal period.

1. A minimum of 5% and a maximum of 20% of licensees will be randomly selected for audit each renewal.
2. Licensees will be notified by mail of their selection for audit.
3. Licensees must submit the requested validation materials within 30 days of the notice of audit. Extension of time may be granted at the discretion of the Department.
4. The licensee selected for audit must submit to the Department materials validating that s/he has met the requirements for continuing competency. Acceptable materials for validation include the following:
 - a. To validate that s/he is engaged in the practice of nursing:
 - (1) A copy of the licensee's job description that includes a description of the application of nursing knowledge;
 - (2) A letter from the licensee demonstrating how nursing knowledge is applied in the practice position; or
 - (3) A letter from the employer/supervisor verifying that the licensee is employed as a nurse.
 - b. To validate that s/he has practiced a minimum of 500 hours within the preceding five years:
 - (1) A letter from the licensee's employer/supervisor verifying 500 hours of nursing practice within the preceding five years; or

- (2) A log from the licensee showing nursing hours worked.
 - c. To validate completion of inservice/continuing education:
 - (1) Copies of certificates. Fee receipts will not be accepted for validation of attendance;
 - (2) Employer generated computer printouts showing employee attendance;
 - (3) Copies of employer's records indicating employee attendance;
 - (4) Letters documenting attendance from providers; or
 - (5) Copies of transcripts from educational institutions.
 - d. To validate graduation from a Nursing Education Program within the preceding two years:
 - (1) Graduation from a Board-approved nursing education program will be verified by the Department's licensing records.
 - (2) Graduation from a post-licensure nursing education program must be documented by a copy of a transcript or a diploma.
 - e. To validate completion of a Board-approved review course of study within the previous five years:
 - (1) A copy of the certificate of completion;
 - (2) A letter from the course coordinator documenting completion; or
 - (3) Documentation of completion of self-designed refresher course.
 - f. To validate current certification in a nursing specialty granted by a nationally recognized certifying organization:
 - (1) A copy of a current certification card showing an expiration date; or
 - (2) A letter from the certifying organization documenting current certification.
 - g. To validate a portfolio:
 - (1) A copy of the portfolio that includes the licensee's current continuing competency goals and evidence/verification of professional activities to meet those goals. Such evidence may include, but not be limited to, specialized training or experiences, continuing education, employer performance evaluation, or other evidence of demonstrated competency.
5. Validating records will not be returned.

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6. Nursing practice hours, inservice education, and continuing education hours for which no documentation is produced will not be included in the calculation of the total requirements for renewal.
7. Failure to notify the Department of a current mailing address will not absolve the licensee from the audit requirement.
8. The Board reserves the right to audit the continuing competency requirements of any licensee by notifying the licensee and requesting the licensee to produce within 30 days of mailing, documents validating hours worked and/or attendance at acceptable continuing education/in-service programs.
9. The Board will notify the licensee upon satisfactory completion of the audit.
10. If the licensee fails to complete the audit satisfactorily her/his license will be placed on lapsed status. The licensee may reinstate her/his license pursuant to 172 NAC 101-006.

101-006 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

101-006.01 Eligibility

101-006.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Suspended or limited for disciplinary reasons; or
4. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

101-006.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

101-006.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 101-010, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

101-006.02 Requirements for Restoration from Lapsed Status if the Credential Has Been Lapsed for Two Years or More: A person whose credential has been placed on lapsed status

for two years or more may have her/his credential restored from lapsed to active status by the Department upon proof to the Department that s/he meets the following requirements:

1. Present evidence of engaging in 500 hours of the practice of nursing within the five years preceding restoration of the license;
2. Pay the renewal fee and late fee; and
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

101-006.03 Procedures for Restoration from Lapsed Status if the Credential Has Been Lapsed for Two Years or More

101-006.03A The applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;

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2. Verification of engaging in 500 hours of nursing practice within five years preceding restoration of the license;
3. The renewal fee and late fee pursuant to 172 NAC 101-009; and
4. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

101-006.03B If an applicant has practiced while her/his credential was lapsed, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 101-010;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from lapsed to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.03C If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from lapsed to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.03D In either event pursuant to 172 NAC 101-006.03B or 101-006.03C, a notice and the opportunity for hearing will be given to the applicant.

101-006.03E The Department will act within 150 days on all completed applications.

101-006.04 Requirements for Restoration from Lapsed Status if the Credential Has Been Lapsed for Less Than Two Years: A person whose credential has been placed on lapsed status for less than two years may have her/his credential restored from lapsed to active status by the Department upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and the late fee; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

101-006.05 Procedures for Restoration from Lapsed Status if the Credential Has Been Lapsed for Less Than Two Years

101-006.05A The applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
2. Verification of meeting the continuing competency requirements pursuant to 172 NAC 101-004.
3. The renewal fee and late fees pursuant to 172 NAC 101-009; and
4. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

101-006.05B If an applicant has practiced while her/his credential was lapsed, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 101-010;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from lapsed to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.05C If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from lapsed to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.05D In either event pursuant to 172 NAC 101-006.05B or 101-006.05C, a notice and the opportunity for hearing will be given to the applicant.

101-006.05E The Department will act within 150 days on all completed applications.

101-006.06 Requirements to Move from Inactive to Active Status if the Credential Has Been Inactive for Two Years or More: A person whose credential has been placed on inactive status for two years or more may have his/her credential moved from inactive to active status by the Department upon satisfactory proof to the Department that s/he meets the following requirements:

1. Present evidence of engaging in 500 hours of the practice of nursing within the five years preceding restoration of the license;
2. Pay the renewal fee; and
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

101-006.07 Procedures to Move a License from Inactive to Active Status if the License Has Been Inactive for Two Years or More:

101-006.07A The applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period

since the credential was active;

- (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of;
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
- 2. Verification of engaging in 500 hours of nursing practice within five years preceding movement of the license from inactive to active status;
 - 3. The renewal fee pursuant to 172 NAC 101-009; and
 - 4. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

101-006.07B If an applicant has practiced while her/his credential was inactive, the Department may:

- 1. Assess an administrative penalty pursuant to 172 NAC 101-010;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to move the credential from inactive to active status; or
- 4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.07C If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request to move the credential from inactive to active status; or

3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.07D In either event pursuant to 172 NAC 101-006.07B or 101-006.07C, a notice and the opportunity for hearing will be given to the applicant.

101-006.07E The Department will act within 150 days on all completed applications

101-006.08 Requirements to Move from Inactive to Active Status if the Credential Has Been on Inactive Status for Less Than Two Years: A person whose credential has been placed on inactive status for less than two years may have her/his credential moved from inactive to active status by the Department upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

101-006.09 Procedures to Move a Credential from Inactive to Active Status if the Credential has been on Inactive Status for less than Two Years:

101-006.09A The applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing

- probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
2. Verification of meeting the continuing competency requirements pursuant to 172 NAC 101-004;
 3. The renewal fee pursuant to 172 NAC 101-009; and
 4. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

101-006.09B If an applicant has practiced while her/his credential was inactive, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 101-010;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.09C If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.09D In either event pursuant to 172 NAC 101-006.09B or 101-006.09C, a notice and the opportunity for hearing will be given to the applicant.

101-006.09E The Department will act within 150 days on all completed applications

101-006.10 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement:

- a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
2. Pay the reinstatement fee of \$75; and
 3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

101-006.11 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and

- [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
 - (6) Any continuing competency activities;
2. The reinstatement fee of \$75; and
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after her/his credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 101-010 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after her/his credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 101-006.11G.

101-006.11A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department to investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§ 71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

101-006.11B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

101-006.11C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

101-006.11D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

101-006.11E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

101-006.11E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

101-006.11E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

101-006.11F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

101-006.11G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

101-006.11G1 If the Board recommends reinstatement of the credential:

1. The Board will send their recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.

3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.

4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

101-006.11G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send their recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.

2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.

3. Upon receipt of the application for reinstatement from the petitioner,

the Department will submit the following to the Director:

- a. The application;
- b. The written recommendation of the Board, including any finding of fact or order of the Board;
- c. The petition submitted to the Board;
- d. The record of hearing, if any; and
- e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.

4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

101-006.11G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

101-006.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

101-006.12A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. § 71-161.11 may be restored at the discretion of the Department.

101-006.12A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;

- c. Social Security number; and
- d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Any continuing competency activities; and
- g. Attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

101-006.12A2 If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

- 1. Assess an administrative penalty pursuant to 172 NAC 101-010;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.12A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while her/his credential was voluntarily surrendered or limited, the Department may:

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1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

101-006.12A4 In either event pursuant to 101-006.1A2 or 101-006.11A3, a notice and the opportunity for hearing will be given to the applicant.

101-006.12A5 The Department will act within 150 days on all completed applications.

101-006.13 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

101-006.13A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

101-006.13B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 101-010.

101-006.14 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

101-007 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

101-007.01 The Department, upon the recommendation of the Board, may deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 101-003.

101-007.02 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against licenses for any of the acts or offenses set forth in Neb. Rev. Stat. §§ 71-147 and 71-148 of the Uniform Licensing Law.

101-007.03 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against licenses for unprofessional conduct, which term includes but is not limited to:

1. Failure to utilize appropriate judgment in administering safe nursing practice based upon the level of nursing for which the individual is licensed;
2. Failure to exercise technical competence based upon the level of nursing for which the individual is licensed in carrying out nursing care;
3. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
4. Failure to safeguard the patient's dignity or right to privacy;

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5. Violating the confidentiality of information or knowledge concerning the patient;
6. Verbally or physically abusing patients;
7. Falsification or intentional unauthorized destruction of patient records;
8. Failure to maintain an accurate patient record;
9. Misappropriating medications, supplies or personal items of a patient or agency;
10. Committing any act which endangers patient safety or welfare;
11. Delegating and/or assigning nursing interventions contrary to the standards set forth in 172 NAC 99;
12. Failure to exercise supervision as set forth in 172 NAC 99 over persons who are authorized to practice only under the direction of the licensed professional;
13. Leaving a patient care nursing assignment without notifying personnel so that reasonable arrangements for continuation of care can be made;
14. Failure to seek consultation, collaboration, or direction from another licensed health care provider when warranted by patient condition;
15. Accepting an assignment when he/she does not have the competence to safely perform the intervention required by the assignment;
16. Practice of the profession without a current active license or temporary permit;
17. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents;
18. Falsification or misrepresentation of material facts in attempting to procure nursing employment;
19. Altering a license or temporary permit by changing the expiration date, certificate number or any other information appearing on the license;
20. Intentional falsification of material facts in a material document connected with the practice of nursing;
21. Violating any term of probation, condition, or limitation imposed on the licensee by the Board or Department;
22. Kissing, fondling, touching or engaging in any other activities of a sexual nature with a patient; and
23. Failure to meet the repayment provisions for a loan received pursuant to the Nursing Student Loan Act.

101-007.04 If the Department denies, refuses renewal of, limits, revokes, or suspends a license, it will notify the applicant or license holder and give him/her an opportunity for an administrative hearing before the Department. These hearings will be conducted in accordance with the Administrative Procedure Act and the Department's Rules of Practice and Procedure.

101-008 ADVISORY OPINIONS: As set forth in Neb. Rev. Stat. § 71-1,132.1, one of the powers and duties of the Board of Nursing is to, if requested, issue or decline to issue advisory opinions defining acts which in the opinion of the Board are or are not permitted in the practice of nursing as defined in Neb. Rev. Stat. § 71-1,132.05. These opinions are informational only and are nonbinding. These opinions may be given in response to requests from nurses, employers, institutions, consumers and any other interested persons. This section is intended to define the process by which person(s) may request advisory opinions, and by which the Board may issue advisory opinions.

101-008.01 Process for Requesting Advisory Opinions from the Board of Nursing

101-008.01A A person requesting an advisory opinion must submit the request in written form. The request may be accompanied by supporting documents such as national standards, literature review, research materials, etc.

101-008.02B At any time, a person(s) may request reconsideration of an advisory opinion.

101-008.02 Process for Issuing Advisory Opinions by the Board of Nursing

101-008.02A The nursing practice consultant will review all written requests for advisory opinions to determine completeness and clarity of the request.

1. The nursing practice consultant will communicate to the requesting person(s) the need for any additional information and/or clarification; and
2. If the nursing practice issue which is the subject of the request has already been addressed by the Board, the nursing practice consultant will communicate the advisory opinion(s) to the requesting party(ies).

101-008.02B The written request for a previously unaddressed advisory opinion will be placed on the agenda of a regularly scheduled meeting of the Nursing Practice Committee and/or Board.

101-008.02C The Nursing Practice Committee will review and study the nursing practice issue, and will formulate an advisory opinion recommendation for action by the Board. In formulating a recommendation, the Committee and/or Board will, as appropriate: consult with and obtain input from the nursing population via individuals and agencies, organizations, associations, regulatory bodies, and professional organizations representing health care professionals and institutions; and review literature and research to determine state, regional, and national trends.

101-008.02D Communication of opinions will be accomplished by a letter of response to the person(s) requesting an advisory opinion, and by publication in the Nursing News, the official newsletter of the Nebraska Board of Nursing. The nursing practice consultant will maintain a file of advisory opinions in the office of the Professional and Occupational Credentialing Division.

1. The Board will communicate its decision not to issue an opinion by a letter of response to the person(s) making the request.

101-009 PER DIEMS, FEES AND FINES

101-009.01 Per Diems: Each Board member will receive a per diem amount of \$30 for each day that s/he is engaged in Board-related business.

101-009.02 Schedule of Fees: The following are the fees which an applicant must pay:

1. Initial Licensure Fee, RN: By an applicant for a license to practice as a registered nurse, the fee of \$75 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

2. Initial Licensure Fee, LPN: By an applicant for a license to practice as a practical nurse, the fee of \$75 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.
3. Proration of Initial Licensure Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1. The license will be valid until the next subsequent renewal date.
4. License Renewal Fee: By an applicant for renewal of a license to practice as a registered nurse or practical nurse on biennial basis, the fee of \$75 and the Licensee Assistance Program fee of \$2.
5. Late Fee: By an applicant for a renewal on a biennial basis of a license to practice as a registered nurse or practical nurse who fails to pay the renewal fee on or before the expiration date of her/his license, the fee of \$25 as a late fee in addition to the renewal fee.
6. Reinstatement from Lapsed Status Fee: By an applicant for reinstatement from lapsed status of a license to practice as a registered nurse or practical nurse:
 - a. If not more than one year after the license was placed on lapsed status, the fee of \$35 in addition to the renewal fee.
 - b. If more than one year after the license was placed on lapsed status, the fee of \$75 in addition to the renewal fee.
7. Reinstatement from Inactive Status Fee: By an applicant for reinstatement from inactive status of a license to practice as a registered nurse or practical nurse, the fee of \$75.
8. Reinstatement Following Discipline Fee: By an applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.
9. Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:
 - a. The basis on which the license was issued;
 - b. The date of issuance;
 - c. Whether disciplinary action has been taken against the license; and
 - d. The current status of the license.
10. Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.
11. Duplicate License Fee: For a duplicate of an original license document or reissued license, the fee of \$10.
12. Administrative Fee: For a denied license or a withdrawn application, an administrative fee of \$25 will be retained by the Department.

101-010 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practices without a license. Practice without a license for the purpose of this regulation means practice:

1. Prior to the issuance of a license;
2. Following the expiration of a license; or
3. Prior to the reinstatement of a license.

101-010.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaging in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a practice site and announces or advertises that the site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact is presumed to be true unless disproved by some evidence to the contrary.

101-010.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

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101-010.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department must hold a hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

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172 NAC 102

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 102 PRACTICE OF LICENSED PRACTICAL NURSES – CERTIFIED

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172 NAC 102

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 102 PRACTICE OF LICENSED PRACTICAL NURSES - CERTIFIED

102-001 SCOPE AND AUTHORITY

102-001.01 These regulations govern the participation of licensed practical nurses certified in the administration of intravenous therapy, a complex activity that includes, but is not limited to, observing, initiating, monitoring, discontinuing, maintaining, regulating, adjusting, documenting, assessing, planning, intervening and evaluating. Within nursing, the administration of intravenous therapy is the responsibility of the registered nurse as prescribed by the licensed practitioner. A licensed practical nurse-certified may perform limited intravenous therapy interventions under the direction of a registered nurse or licensed practitioner. A licensed practical nurse-certified may be used to complement the registered nurse's role or licensed practitioner role in the administration of intravenous therapy, but cannot be used as a substitute for the registered nurse or licensed practitioner. An LPN-C may only provide intravenous interventions when there is a licensed practitioner or registered nurse assessing the client at least once every 24 hours, or more frequently when a significant change in therapy or client condition has occurred.

102-001.02 These regulations are authorized by and implement Neb. Rev. Stat. §§ 71-147 to 148, 71-150 to 71-162.05, 71-164.01, 71-172.02, 71-1,132.20, and 71-1772 to 71-1794.

102-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-1772 to 71-1794, known as the Licensed Practical Nurse-Certified Act.

Approved certification course means a course which the Board has approved for the education and training of a licensed practical nurse-certified.

Approved medications means those medications for which nursing interventions are routine and predictable in nature related to individual responses and adverse reactions.

Approved methods of administration means intravenous administration both by piggyback and push methods through intermittent access and continuous flow peripheral lines and through continuous flow central lines.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

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Board means the Board of Nursing.

Calculate rate of flow means to determine drip factor or pump setting based upon a prescribed amount of fluid to infuse during a prescribed period of time.

Central line means an intravenous line in which the tip of the catheter ends in the vena cava.

Course supervisor means the registered nurse who is responsible for the course curriculum, the faculty, the policies and procedures of the program including criteria for successful completion, and the necessary resources to provide for adequate learning experiences.

Department means the Department of Health and Human Services Regulation and Licensure.

Direct supervision means that the responsible licensed practitioner or registered nurse is physically present in the clinical area and is available to assess, evaluate, and respond immediately.

Educator means an individual who has been approved to offer education and training of a licensed practical nurse-certified as outlined in 172 NAC 102-011.

Examination for certification means an examination approved by the Board that covers the content area as prescribed in the curriculum of an approved certification course.

Initial venipuncture means the initiation of intravenous therapy based on a new order from a licensed practitioner.

Licensed practical nurse (LPN) means an individual who holds a current license or has the authority based on the Nurse Licensure Compact to practice as a licensed practical nurse in Nebraska.

Licensed practitioner means any person authorized to prescribe intravenous therapy.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 102.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

Pediatric client means a client who is both under the age of eighteen and under the weight of thirty-five kilograms.

Piggyback method of IV medication administration means that the drug is administered using a secondary bag/bottle and tubing and the primary infusion is concurrently maintained throughout drug administration.

Push method of IV medication administration means that medication is administered through a syringe directly into a vein.

Registered nurse (RN) means an individual who holds a current license or has the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska.

Significant change in therapy means any change ordered by a licensed practitioner related to a change in intravenous fluid, change in rate, and/or change in medication or frequency of administration.

102-003 ACCEPTABLE ACTIVITIES IN INTRAVENOUS THERAPY

102-003.01 An LPN-C may perform all the activities described in 172 NAC 99-007.

102-003.02 When under the direct supervision of an RN or licensed practitioner, an LPN-C may perform these activities for an adult client:

1. Infuse intravenous fluids and administer medications into a continuous flow central line. Infusing fluids and administering medications into an intermittent central line is not permitted.
2. Perform initial venipuncture in the hand, forearm, antecubital fossa area, and/or the upper arm with a device three inches in length or less.
3. Administer an initial dose of an approved medication as described in 172 NAC 102-003.05, by an approved method.
4. Add Dextrose 10% as a meal replacement.

102-003.03 When under the direction of an RN or licensed practitioner, an LPN-C may perform these activities for an adult client:

1. Perform venipuncture in the hand, forearm, antecubital fossa area, and/or the upper arm with a device three inches in length or less.
2. Calculate and adjust the rate of flow.
3. Administer approved medications, as described in 172 NAC 102-003.05, by approved methods. If administering pain medications through a patient-controlled administration pump, the cassette or syringe must have been commercially prepared, or prepared by a pharmacist, physician or registered nurse.
4. Reinsert, convert and flush peripheral intermittent infusion devices.

102-003.04 When under the direction of an RN or licensed practitioner, an LPN-C may perform these activities for a pediatric client:

1. Administer pain medications through a patient-controlled administration pump if the medication has been commercially prepared, or prepared by a pharmacist, physician or registered nurse.
2. Flush a peripheral intermittent infusion device.

102-003.05 Approved Medications

102-003.05A When approving medications for intravenous administration by an LPN-C, the RN or licensed practitioner must consider the following:

1. Adverse consequences;
2. How adverse consequences are manifested;
3. How adverse consequences are measured;
4. What intervention is required; and
5. How intervention is applied.

102-003.05B Approved medications do not include:

1. Blood and blood products;
2. Antineoplastic agents;
3. Oxytocics;
4. Anti-arrhythmics; and
5. Hyperalimentation.

102-004 REQUIREMENTS FOR ISSUANCE OF CERTIFICATE BY EXAMINATION: A licensed practical nurse may perform the activities identified in 172 NAC 102-003 only if s/he holds a licensed practical nurse certificate. This requirement does not prohibit practical nurses identified in Neb. Rev. Stat. § 71-1789 from performing the activities in 172 NAC 102-003 as limited by that section. The criteria for issuance of a certificate and documents required in applying for a certificate by examination are set forth below.

102-004.01 An applicant for a certificate to practice as an LPN-C must:

1. Have a current license or the authority based on the Nurse Licensure Compact to practice as a licensed practical nurse in Nebraska;
2. Have demonstrated approved certification course prerequisites;
3. Have successfully completed an approved certification course within one year before application for certification;
4. Satisfactorily pass at the time of application an examination for certification approved by the Board;
5. Submit to the Department:
 - a. A verified application which contains the following information about the applicant: name, address, gender, date of birth, place of birth, Social Security number, LPN license number, primary state of residence, the name of the provider for the certification course, and an indication of the number of times the applicant has applied to take the certification examination. Only applications that contain all of the required information will be considered;
 - b. A statement describing all of the following: (Information previously submitted on a mandatory report or other license application does not need to be submitted again.)
 - (1) Pending charges which could result in a felony or misdemeanor conviction;
 - (2) Felony or misdemeanor convictions; (This does not include minor traffic violations.)

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- (3) Denials, discipline or pending discipline of a license in any health care profession;
- (4) Denials of admissions to take a licensing examination in any health care profession;
- c. Proof of successful completion within the previous year of an approved certification course. Proof of completion of the certification course meets the requirement for demonstration of the course prerequisites; and
- d. The required certification fee.

102-004.02 The following applicants must provide additional information to the Department:

- 1. Persons with pending charges which could result in a felony or misdemeanor conviction;
- 2. Persons who have been convicted of a felony or misdemeanor; (This does not include minor traffic violations.) and
- 3. Persons whose license to practice in a health care profession has been denied or disciplined or is pending discipline.

102-004.03 Applicants listed in 172 NAC 102-004.02 must submit the following to the Department:

- 1. A full explanation of the pending charges, conviction, denial, disciplinary action, or pending disciplinary action; and
- 2. Official records as requested by the Department related to the conviction, denial, or discipline, for example: probation reports, court records, licensure disciplinary reports, or chemical dependency evaluation.

102-004.04 The Department must act within 150 days of the examination upon all completed applications for certification.

102-004.05 If the Department proposes to deny issuance of a certificate, the applicant will be given an opportunity for a hearing before the Department and has the right to present evidence on his or her own behalf. Hearings before the Department will be conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

102-005 EXAMINATION ELIGIBILITY: To be eligible to take the examination for certification as a licensed practical nurse-certified, an applicant must meet all the requirements for certification pursuant to Neb. Rev. Stat. § 71-1777 and 172 NAC 102-004 except satisfactorily passing the examination for certification.

102-006 EXAMINATION PROCEDURES

102-006.01 The certification examination will be administered by the Department every three months, and may be administered more frequently if needed.

102-006.02 The examination dates and location of administration will be determined by the Board.

102-006.03 The applicant will be notified of the date, time, place and other information pertinent to the administration of the examination at least two weeks prior to the certification examination.

102-006.04 The Department will notify an applicant in writing of the certification examination results within 30 days of the examination.

1. An applicant passing the certification examination will be issued a certificate provided s/he has met the requirements for certification as set forth in 172 NAC 102-004.
2. An applicant not passing the certification examination will be denied a certificate in accordance with Neb. Rev. Stat. § 71-1782. The applicant will receive examination results and notice of appeal process.

102-007 EXAMINATION PASSING SCORE: The passing score for the certification examination is 80%.

102-008 REEXAMINATION

102-008.01 An applicant who fails the certification examination one time may reapply for certification by examination and retake the examination.

102-008.02 An applicant who fails the certification examination two times must retake an approved certification course before s/he may reapply to retake the examination and become certified.

102-008.03 An applicant who wishes to retake the examination must meet the requirements set forth in 172 NAC 102-004 and resubmit to the Department:

1. A verified application as set forth in 172 NAC 102-004.01;
2. Proof of successful completion within the previous year of an approved certification course; and
3. The required certification fee.

102-009 MINIMUM PREREQUISITES FOR ENROLLMENT

102-009.01 A provider of an approved certification course must require all applicants for the course to demonstrate the following competencies prior to enrolling in the course:

1. Basic math skills of addition, subtraction, multiplication, division and percentages;
2. Problem solving and critical thinking skills; and
3. Communication and documentation skills.

102-009.02 Acceptable means for measuring the competencies include:

1. Standardized or national examinations;
2. Program-developed examinations;

3. Supervisory evaluations; or
4. A combination of any of the above.

102-010 REQUIREMENTS FOR COURSE APPROVAL: Pursuant to Neb. Rev. Stat. § 71-1780 the Department, with the advice of the Board, will prescribe a curriculum for training licensed practical nurses-certified and establish minimum standards for approved certification courses.

102-010.01 The curriculum of an approved certification course must meet the following criteria:

102-010.01A The course must consist of no fewer than 48 hours of classroom instruction which must include but not be limited to:

1. State laws governing the administration of intravenous therapy;
2. Review of anatomy and physiology of the circulatory system;
3. Fluid and electrolyte balance:
 - a. Fluid and electrolyte regulation mechanisms,
 - b. Electrolyte imbalances,
 - c. Fluid volume excess/deficit,
 - d. Implications for use of intravenous fluids,
 - e. IV fluid osmolarity (isotonic, hypertonic, hypotonic);
4. Peripheral intravenous therapy:
 - a. Purposes,
 - b. Selection of the site: vein anatomy; location of the veins,
 - c. Implications of medications/fluids in peripheral sites,
 - d. Venipuncture procedure:
 - (1) Stainless steel needle,
 - (2) Over-the-needle catheter,
 - e. Maintaining the peripheral IV:
 - (1) Infusion rate and methods to insure accurate infusion,
 - (2) Site reassessment,
 - (3) Types of tubing,
 - (4) Uses of filter,
 - (5) Intermittent infusion devices to include flushing techniques,
 - (6) Review of site care including dressing change;
 - f. Potential complications/identification of non-functioning IV lines and appropriate interventions,
 - g. Review discontinuation of peripheral lines,
 - h. Documentation considerations;
5. Central intravenous therapy:
 - a. Purposes and sites,
 - b. Types of central catheters,
 - c. IV tubing changes,
 - d. Potential complications,

- e. Identification of non-functioning lines,
 - f. Review of dressing site changes,
 - g. Documentation considerations;
6. Pharmacology to include:
- a. Concepts of absorption, distribution, biotransformation, and excretion for intravenous medications,
 - b. Factors affecting drug functioning:
 - (1) Half-life,
 - (2) Implication for peak/trough levels,
 - (3) Implications for timing drug infusion,
 - (4) Compatibilities,
 - c. Actions, interactions, and effects of medications in intravenous therapy;
 - d. Risks associated with intravenous administration of medications.
7. Infection control principles:
- a. As related to a client,
 - b. As related to health care worker,
 - c. As applicable for care of equipment.

102-010.01B An approved course must include a clinical competency component. The licensed practical nurse must demonstrate the ability to:

- 1. Select an administration site on hands, forearms, antecubital fossa, and upper arm;
- 2. Assemble equipment and set up flow control administration devices (gravity, electronic monitoring, etc.);
- 3. Perform at least three venipunctures in the laboratory/clinical area under the direct supervision of faculty, including preparation of site, selection of the appropriate type and size of needle/catheter, venipuncture, and securing of venipuncture device;
- 4. Problem solve non-functioning peripheral intravenous lines;
- 5. Convert and flush a peripheral intermittent infusion device, including the drawing up of the correct irrigating fluid;
- 6. Add a fluid to a functioning central venous line;
- 7. Change central line tubing and dressings of central venous insertion site;
- 8. Document the insertion of a peripheral infusion device and the administration of select fluids and acceptable medications; and
- 9. Add a fluid/medication to an infusion pump to include changing the cassette and resetting the administration parameters.

102-010.02 Faculty

102-010.02A An approved certification course must be supervised by a registered nurse with a minimum of three years of clinical experience immediately prior to supervision of the course.

102-010.02A1 The registered nurse must have a minimum of a master's degree in nursing or a related field, or show yearly academic progress toward meeting the degree requirements and have experience in nursing practice or nursing education.

102-010.02A2 Clinical experience may include practice as nursing faculty in an approved program of registered or practical nursing or as an instructor in staff development in a facility approved by the State of Nebraska.

102-010.02B An educator may be a registered nurse, physician, pharmacist, or other qualified professional.

102-010.02B1 An educator must have at least 24 months experience in the practice of his or her profession and current expertise in the area of administration of intravenous therapy.

102-010.02C For purposes of demonstration of clinical competencies, the faculty-to-student ratio must be one-to-one.

102-010.03 Record Keeping: A policy must be in place for the licensed practical nurse-certified course to provide documentation to the Department that the applicant has successfully passed an approved certification course.

102-010.04 An applicant to conduct an approved certification course must submit to the Department:

1. An application which includes the following:
 - a. Agency name providing the course,
 - b. Name, title, practice experience, and educational preparation of person that is supervising the course,
 - c. Names and qualifications of persons who will be teaching all or portions of the course,
 - d. Identification of the total didactic hours that are in the course,
 - e. Identification of methods and requirements for demonstrating clinical competencies,
 - f. A copy of the course outline showing content to be taught,
 - g. A copy of the evaluation form to be used to document that the participant did or did not pass the course,
 - h. Identification of the method to be used to provide documentation to the Department that the applicant has successfully passed an approved certification course; and
2. The appropriate fee.

102-010.05 The Department will act within 150 days upon all completed applications to conduct an approved certification course.

102-010.06 All approved course providers must keep the Board informed of any changes in

course objectives, content, and/or instructors at the time such changes occur.

102-010.07 The Department may deny, revoke, or suspend approval or otherwise take disciplinary measures against the provider of an approved certification course for failure to meet or continue to meet the criteria for approval of a certification course.

102-010.07A Any appeal to such denial, revocation, suspension, or other disciplinary measures must be conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

102-011 REQUIREMENTS AND PROCEDURE FOR RENEWAL OF A CERTIFICATE

102-011.01 All certifications as a licensed practical nurse-certified issued by the Department pursuant to the Act and 172 NAC 102 expire on October 31 of each odd-numbered year unless renewed as provided below.

102-011.02 Before her or his certification will be renewed the licensed practical nurse-certified must:

1. Have completed five contact hours of continuing education and/or inservice education related to intravenous therapy. This contact hour requirement may be included in the continuing education required for renewal of the license to practice as a licensed practical nurse;
2. Have a current license or the authority based on the Nurse Licensure Compact to practice as a licensed practical nurse in Nebraska.

102-011.03 Renewal Process: Any LPN-C who wishes to renew her/his certificate must:

1. Meet the continuing competency requirements pursuant to 172 NAC 102-011.02;
2. Pay the renewal fee as prescribed in 172 NAC 102-013.
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the certificate or during the time period since certification in Nebraska if such occurred within the two years prior to the certificate expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the continuing competency requirements within 24 months of the date of expiration. Attestation of meeting continuing competency requirements satisfies requirements for documentation of continuing competency.
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the certificate holder has been convicted of a felony or misdemeanor:

- (1) Official Court Record, which includes charges and disposition;
- (2) Copies of arrest records;
- (3) A letter from the certificate holder explaining the nature of the conviction;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- (5) A letter from the probation officer addressing probationary conditions and current status, if the certificate holder is currently on probation.

102-011.03A First Notice: On or before August 1 of odd-numbered years, the Department will send a renewal notice by means of regular mail to each certificate holder at the certificate holder's last place of residence as noted in the records of the Department. It is the responsibility of the certificate holder prior to the renewal period to notify the Department of any name and/or address changes.

102-011.03A1 The renewal notice will specify:

1. The name of the certificate holder;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the certificate;
5. The renewal fee as prescribed in 172 NAC 102-013;
6. The attestation of continuing competency; and
7. The attestation of primary state of residence.

102-011.03A2 The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The certificate holder's Social Security number;
4. Attestation of meeting the continuing competency requirements; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

102-011.03B Second Notice: The Department will send to each certificate holder who fails to renew her or his certificate in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 102-011.03A that specifies:

1. That the certificate holder has failed to pay the renewal fee;
2. That the certificate has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That the certificate holder is subject to an administrative penalty pursuant to 172 NAC 102-014 if s/he practices after the expiration date;

5. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency within that time, the certificate will be not be placed on lapsed status; and
6. That upon failure to receive \$25 in addition to the renewal fee and documentation of continuing competency, the certificate will be lapsed.

102-011.03B1 The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The certificate holder's Social Security number;
4. Attestation by the certificate holder:
 - a. That s/he has not practiced in Nebraska since the expiration of her/his certificate; or
 - b. To the actual number of days practiced in Nebraska since the expiration of her or his certificate;
5. Attestation of meeting the continuing competency requirements; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

102-011.03B2 When a certificate holder fails, within 30 days of expiration of a certificate, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically lapse the certificate without further notice or hearing and make proper record of the lapsed status.

102-011.03B3 Failure to meet the continuing competency requirements for renewal within 30 days of expiration of her/his certificate will constitute non-renewal of a certificate. When any certificate holder fails, within 30 days of expiration of a certificate, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department will lapse the certificate.

102-011.03B4 The Department may refuse to renew a certificate for falsification of any information submitted for renewal of a certificate. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-150 to 71-155 and the Department's Rules of Practice and Procedure.

102-011.03B5 An individual who practices after expiration of her/his certificate is subject to assessment of an administrative penalty pursuant to 172 NAC 102-014, or such other action as provided in the statutes and regulations governing the license.

102-012 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A CERTIFICATE

102-012.01 The Department, upon the recommendation of the Board, will deny an application for certification to practice as a licensed practical nurse-certified when the applicant fails to meet the requirements for certification pursuant to 172 NAC 102-004 or is found to be in violation of any of the provisions of 172 NAC 102-012.

102-012.02 The Department, upon the recommendation of the Board, will refuse renewal of a certification if the licensed practical nurse-certified fails to meet the requirements pursuant to 172 NAC 102-011.

102-012.03 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, or revoke certifications for any of the grounds identified in 172 NAC 101-007.

102-012.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend a license other than for non-payment of the renewal fee, the applicant or license holder will be notified and given an opportunity for a hearing before the Department. Hearings before the Department will be conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 71-150 to 71-155.

102-013 SCHEDULE OF FEES: An applicant must pay fees to the Department as follows:

1. Initial Certification Fee: For a certificate to practice as a licensed practical nurse-certified, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1 for each year remaining in the current biennial renewal period.
2. Certificate Renewal Fee: For biennial renewal of a certificate to practice as a licensed practical nurse-certified, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program Fee of \$2.
3. Late Fee: For renewal on a biennial basis of a certificate to practice as an LPN-C, who fails to pay the renewal fee on or before the expiration date of his/her certificate, the fee of \$25 as a late fee in addition to the renewal fee.
4. Proration of Initial Certification Fee: For issuance of a certificate that will expire within 180 days after its initial issuance date, a fee of \$25. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1. The certificate will be valid until the next subsequent renewal date.
5. Certification of Certificate Fee: For issuance of a certification of a certificate, the fee of \$25. The certification includes information regarding:
 - a. The basis on which a certificate was issued;
 - b. The date of issuance;
 - c. Whether disciplinary action has been taken against the certificate; and
 - d. The current status of the certificate.

6. Verification of Certificate Fee: For issuance of a verification of a certificate, the fee of \$5. The verification includes written confirmation as to whether a certificate was valid at the time the request was made.
7. Duplicate Certificate Fee: For a duplicate of an original certificate document or reissued certificate, the fee of \$10.
8. Administrative Fee: For a denied certificate or a withdrawn application, an administrative fee of \$25 will be retained by the Department.
9. Approval of a Certification Course (Approved School of Nursing): For approval of a certification course to be offered by an approved school of registered or practical nursing, the fee of \$250.
10. Approval of a Certification Course (Other than Approved School of Nursing): For approval of a certification course to be offered by a person other than an approved school of registered or practical nursing, the fee of \$750.
11. Reinstatement From Lapsed Status Fee: For reinstatement of a certificate from lapsed status:
 - a. If not more than one year after the certificate was placed on lapsed status, the fee of \$35 in addition to the renewal fee.
 - b. If more than one year after the certificate was placed on lapsed status, the fee of \$75 in addition to the renewal fee.
12. Reinstatement Following Discipline Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

102-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practices without a certificate. Practice without a certificate for the purpose of this regulation means practice:

1. Prior to the issuance of a certificate; or
2. Following the expiration of a certificate.

102-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a certificate:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person or entity opens a business or practice site and announces or

advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact is presumed to be true unless disproved by some evidence to the contrary.

102-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a certificate. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

102-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

102-015 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

102-015.01 Eligibility:

102-015.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Suspended or limited for disciplinary reasons; or
3. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

102-015.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date

of revocation.

102-015.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 102-014; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

102-015.02 Requirements to Restore a Credential from Lapsed to Active Status: A person whose credential has been placed on lapsed status may have her/his credential restored from lapsed to active status upon proof to the Department that s/he meets the following requirements:

1. Meet the certification requirements set out in 172 NAC 102-004; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

102-015.02A If an applicant has practiced while her/his credential was lapsed the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 102-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from lapsed to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

102-015.02B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from lapsed to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

102-015.02C In either event pursuant to 172 NAC 102-015.02A or 102-015.02B, a notice and the opportunity for hearing will be given to the applicant.

102-015.02D The Department will act within 150 days on all completed applications.

102-015.03 (Reserved)

102-015.04 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement:
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

102-015.05 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner, each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens, each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and

- disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
- (6) Any continuing competency activities;
- 1. The reinstatement fee of \$75; and
 - 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after her/his credential was revoked, the Department may assess an administrative penalty pursuant to 172 NAC 102-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after her/his credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 102-015.05G below.

102-015.05A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

- 1. Request the Department to investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§ 71-147 and 71-148;
- 2. Require the petitioner to submit to a complete diagnostic examination by

one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;

3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

102-015.05B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

102-015.05C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

102-015.05D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

102-015.05E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

102-015.05E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

102-015.05E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

102-015.05F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

102-015.05G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

102-015.05G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit to the Department an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

102-015.05G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified

mail along with notification that the petitioner must file an application for reinstatement with the Director.

2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

102-015.05G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

102-015.06 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

102-015.06A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

102-015.06A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number;
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
 - f. Any continuing competency activities; and
 - g. Attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or

- (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

102-015.06A2 If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 102-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

102-015.06A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while her/his credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

102-015.06A4 In either event pursuant to 172 NAC 102-015.06A2 or 172 NAC 102-015.06A3 a notice and the opportunity for hearing will be given to the applicant.

102-015.06A5 The Department will act within 150 days on all completed applications.

102-015.07 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

102-015.07A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

102-015.07B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 102-014.

102-015.08 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

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7/21/04

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 103

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 103 PRACTICE OF CERTIFIED REGISTERED NURSE ANESTHETISTS

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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 103

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 103 PRACTICE OF CERTIFIED REGISTERED NURSE ANESTHETISTS

103-001 SCOPE AND AUTHORITY: These regulations govern the practice of certified registered nurse anesthetists in the State of Nebraska. These regulations are authorized by and implement Neb. Rev. Stat. §§ 71-147 to 71-148, 71-150 to 71-162.05, 71-164.01, 71-172.02, 71-1,132.20, and 71-1729 to 71-1737.

103-002 DEFINITIONS

Act means the Advanced Practice Registered Nurse Act.

Approved course of study in anesthesia means a nurse anesthesia educational program accredited by the Council on Accreditation of Nurse Anesthesia and Educational Programs.

Approved examination means the National Certification Examination (NCE) given by the Council on Certification of Nurse Anesthetists.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Boards means the Board of Nursing and Board of Examiners in Medicine and Surgery.

Completed application means all of the information requested in 172 NAC 103-003.01 has been provided and attested and the appropriate fees and all required documentation have been submitted.

CRNA means a Certified Registered Nurse Anesthetist who is a registered nurse and who meets all the criteria for certification and holds a current certification from the State of Nebraska to practice nursing in the specific expanded role of anesthesia.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201 for performance of the duties set out in that statute.

Lapsed status means the designation given to a certificate holder who requests this status or who fails to renew his/her certification.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 103.

National certification means the certification granted by the Council on Certification of Nurse Anesthetists.

National recertification means the continued periodic granting of recertification by the Council on Recertification of Nurse Anesthetists.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

Official record means a document that carries the seal, signature or other notation indicating that the document was issued by the primary source.

Reinstatement means the return to active status and the restoration of the authority to practice to a certificate holder who was previously licensed in this state.

103-003 REQUIREMENTS FOR ISSUANCE OF A CERTIFICATE: A person may practice as a CRNA in Nebraska only if s/he holds a Nebraska certificate or a temporary permit. This requirement does not prohibit persons identified in Neb. Rev. Stat. § 71-1726.01 from practicing advanced practice nursing or Neb. Rev. Stat. § 71-1729(3) from practicing anesthesia as limited by those sections. The criteria for issuance of a certificate and temporary permit, and the documents required in applying are set forth below.

103-003.01 Requirements for Certification: The applicant must:

1. Be licensed as a registered nurse in the State of Nebraska, or have the authority to practice pursuant to the Nurse Licensure Compact;
2. Have successfully completed an approved course of study in anesthesia;
3. Have passed an approved examination and have current national certification or recertification; and
4. Pay the appropriate fee.

103-003.02 Applicants for certification must submit to the Department:

1. A completed written application which:
 - a. Is verified by the applicant's oath; and
 - b. Contains the following information about the applicant:
 - (1) Name;

- (2) Address;
 - (3) Gender;
 - (4) Date of birth;
 - (5) Place of birth;
 - (6) Social Security number;
 - (7) Primary state of residence;
 - (8) RN license number in primary state of residence if primary state of residence is another compact state;
 - (9) Name and location of the approved course of study in anesthesia from which the applicant graduated; and
 - (10) A statement describing all:
 - (a) Pending charges which could result in a felony or misdemeanor conviction;
 - (b) Felony or misdemeanor convictions;
 - (c) Denials, discipline, or pending discipline of a license in any health care profession; and
 - (d) Denials of admission to take a licensing examination in any health care profession;
2. An official transcript showing completion of the requirements for an approved course of study. National certification by the Council on Certification of Nurse Anesthetists or national recertification by the Council on Recertification of Nurse Anesthetists will meet this requirement;
3. Documentation of having passed an approved examination by letter or other official record from the Council on Certification of Nurse Anesthetists. Any applicant who indicates on his/her application that s/he is not currently certified by the Council on Certification of Nurse Anesthetists or recertified by the Council on Recertification of Nurse Anesthetists will be required to obtain national certification or recertification;
4. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license.
 - (1) Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty pursuant to 172 NAC 103-006, or such other action as provided in the statutes and regulations governing the credential; and
5. The required certification fee.
 - a. When a certificate will expire within 180 days after its initial issuance date, the Department will collect \$25 and if applicable the Licensee Assistance Program fee of \$1, and the certificate will be valid until the next subsequent renewal date.

103-003.03 Any applicant who indicates on his/her application that s/he has:

1. Been convicted or has pending charges of a misdemeanor or felony other than a minor traffic violation;
2. Has had his/her credential to practice in a health care profession denied or disciplined or has any pending disciplinary action or denial; or
3. Been denied admission to take the licensing examination in any health care profession, will be required to submit:
 - a. A full explanation of the conviction, denial, and/or disciplinary action and/or pending charges, denial, and/or disciplinary action;
 - b. Official records as requested by the Department related to the conviction, denial or discipline, for example: probation reports, court records, disciplinary reports, or chemical dependency evaluation.

103-003.04 The Department or the Boards may require these applicants to undergo an interview by Department staff or the Boards at their discretion in order to clarify or amplify information contained in the official record.

103-003.05 Temporary Permit: Applicants for certification as a CRNA may be granted a temporary permit. The conditions under which a temporary permit may be issued and the documents required are set forth below.

103-003.05A Applicants who have not previously taken an approved examination and who meet all of the criteria for certification as a CRNA except having passed an approved examination may be granted a temporary permit pending the results of the first examination following graduation in accordance with Neb. Rev. Stat. § 71-1731.

1. For applicants who have not previously taken an approved examination, the examination required for certification in the State of Nebraska will be considered to be the first examination following graduation.
2. Only applicants who have submitted a completed application, the required fee for certification, and who have completed an approved course of study in anesthesia and have registered for the examination will be issued a temporary permit.
 - a. Documentation of completion of an approved course of study may be by an official transcript or by letter from the Dean, Chairperson, or Director of the educational program.
 - b. Proof of registration for the examination must be by letter to the Department from the Council on Certification of Nurse Anesthetists or a notarized copy of a document from the Council to the applicant stating that registration is completed and identifying the date of the examination.
3. The temporary permit is issued for 60 days or until the results of the examination are known.
 - a. The temporary permit is null and void if the applicant fails the examination.

- b. The temporary permit is null and void if the applicant fails to take the scheduled examination, unless extended at the discretion of the Boards. Circumstances which may result in extension of the permit include illness/injury of self or immediate family member, or death of an immediate family member immediately prior to or on the date(s) of the examination.
 - (1) A written request for extension of the permit must be made to the Boards explaining the circumstances under which the extension is requested.

103-003.05B Applicants who meet all of the criteria for certification as a CRNA and who are lawfully authorized to practice as a CRNA in another state may be issued a temporary permit in accordance with Neb. Rev. Stat. § 71-1731 pending completion of the application for a Nebraska certificate.

1. Only applicants who have submitted a completed application and the required certification fee, and evidence of current authorization by another state and national certification or recertification will be issued a temporary permit.
 - a. Evidence of lawful authorization in another state may be documented by submission of a notarized copy of a current certificate/license in another state or other official record.
 - b. Evidence of national certification or recertification may be documented by submission of a notarized copy of a current certification or recertification card or other official record.
2. The temporary permit may be issued for up to one year and is valid until the certificate is issued, until the expiration date, or until any final decision is made to deny the certificate.

103-003.05C Applicants who meet all of the criteria for certification as a CRNA except current national certification or recertification and who require a reentry program in accordance with Neb. Rev. Stat. § 71-1730 may be issued a temporary permit in accordance with § 71-1731.

1. Only applicants who have submitted a completed application and the required certification fee and who have completed an approved course of study in anesthesia will be issued a temporary permit.
2. A temporary permit issued pursuant to this section is valid for clinical practice undertaken as part of a reentry program and only for the duration of the program.
3. The temporary permit is valid until the certificate is issued, or until any final decision is made to deny the certificate unless extended at the discretion of the Boards for up to one year.

103-003.06 The Department will act within 150 days upon all completed applications for

certification.

103-003.07 If the Department denies issuance of a certificate, the applicant will be given an opportunity for an administrative hearing before the Department conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

103-004 RENEWAL OF A CERTIFICATE

103-004.01 Expiration: All CRNA certificates issued by the Department pursuant to the Act and these regulations expire on October 31 of each even-numbered year unless renewed as provided below.

103-004.02 Continuing Competency Requirements: For purposes of certificate renewal, the applicant must maintain current national certification granted by the Council on Certification of Nurse Anesthetists.

103-004.03 Renewal Process: Any certificate holder who wishes to renew her/his certificate must:

1. Meet the continuing competency requirements as pursuant to 172 NAC 103-004.02;
2. Pay the renewal fee as prescribed in 172 NAC 103-008;
3. Respond to the following questions:
 - a. Has your license/certification in any profession in another state been revoked, suspended, limited, or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the certificate or during the time period since initial certification in Nebraska if such occurred within the two years prior to the certificate expiration date; and
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the continuing competency requirements within 24 months of the date of expiration. Attestation of meeting continuing competency requirements satisfies the documentation requirement of Neb. Rev. Stat. § 71-1735.
 - d. If any disciplinary action was taken against the applicant's certification by another state, an official copy of the disciplinary action, including charges and disposition; and
 - e. If the applicant has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the applicant explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if

- treatment was obtained and/or required; and
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

103-004.04 First Notice: On or before August 1 of even-numbered years, the Department will send a renewal notice by means of regular mail to each certificate holder at the certificate holder's last place of residence as noted in the records of the Department. It is the responsibility of the certificate holder prior to the renewal period to notify the Department of any name and/or address changes.

103-004.04A The renewal notice will specify:

1. The name of the certificate holder;
2. The certificate holder's last known address of record;
3. The certification number;
4. The expiration date of the certificate;
5. The renewal fee as prescribed in 172 NAC 103-008;
6. The attestation of continuing competency;
7. The option to place the certificate on lapsed status; and
8. The attestation of primary state of residence.

103-004.04B The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The certificate holder's Social Security number;
4. Attestation of meeting the continuing competency requirements within the required time period; and
5. Documentation relating to misdemeanor or felony conviction(s) or certificate/licensure revocation, suspension, limitation, or disciplinary action (if applicable).

103-004.04C If the certificate holder wishes to place her/his certificate on lapsed status s/he must request that her/his certificate be placed on lapsed status by submitting to the Department the renewal notice with a check in the box marked lapsed.

103-004.04D The Department will notify the certificate holder in writing of the acceptance or denial of the request to allow the certificate to be placed on lapsed status.

103-004.04E A certificate holder whose certificate is on lapsed status must not practice in this state.

103-004.05 Second Notice: The Department will send to each certificate holder who fails to renew her/his certificate or place the license on lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 103-004.04 that specifies:

1. That the certificate holder failed to pay the renewal fee;
2. That the certificate has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That the certificate holder is subject to an administrative penalty pursuant to 172 NAC 103-006 if s/he practices after the expiration date;
5. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency within that time, the certificate will be not be placed on lapsed status; and
6. That upon failure to receive \$25 in addition to the renewal fee, and documentation of continuing competency, the certificate will be lapsed.

103-004.05A The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The certificate holder's Social Security number;
4. Attestation by the certificate holder:
 - a. That s/he has not practiced in Nebraska since the expiration of her/his certificate; or
 - b. To the actual number of days practiced in Nebraska since the expiration of her/his certificate;
5. Attestation of meeting the continuing competency requirements within the required time period; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

103-004.05A1 If the certificate holder wishes to place her/his license on lapsed status, s/he must request that her/his certificate be placed on lapsed status by submitting to the Department the renewal notice with a check in the box marked lapsed.

103-004.05A2 The Department will notify the certificate holder in writing of the acceptance or denial of the request to allow the license to be placed on lapsed status.

103-004.05B When a certificate holder fails, within 30 days of expiration of a certificate, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically lapse the certificate without further notice or hearing and make proper record of the lapsed status.

103-004.05C When the certificate holder has given notification to the Department that s/he desires to have the certificate lapse upon expiration, 172 NAC 103-004.05B will not apply.

103-004.05D The Department may refuse to renew a license for falsification of any information submitted for renewal of a certificate. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-150 to 71-155 and the Department's Rules of Practice and Procedure.

103-004.05E An individual who practices after expiration of her/his certificate is subject to assessment of an administrative penalty pursuant to 172 NAC 103-006, or such other action as provided in the statutes and regulations governing the certificate.

103-005 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

103-005.01 Eligibility

103-005.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Suspended or limited for disciplinary reasons; or
3. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

103-005.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

103-005.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 103-006; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

103-005.02 Requirements to Move a Credential from Lapsed to Active Status: A person whose credential has been placed on lapsed status may have her/his credential moved from lapsed to active status upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in

Nebraska since s/he last held an active credential.

103-005.03 Procedures for Moving from Lapsed to Active Status: To move a credential from lapsed status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant; and
 - f. Verification that the continuing competency requirements for renewal have been met;
 2. The renewal fee and the late fee; and
 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

103-005.03A If an applicant has practiced while her/his credential was lapsed the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 103-006;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from lapsed to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

103-005.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from lapsed to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

103-005.03C In either event pursuant to 172 NAC 103-005.03A or 103-005.03B, a notice and the opportunity for hearing will be given to the applicant.

103-005.03D The Department will act within 150 days on all completed applications.

103-005.04 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Boards for reinstatement:
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
2. Pay the reinstatement fee of \$75; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

103-005.05 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An application for reinstatement will be consecutively reviewed by both Boards according to the procedures set forth in this section. An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must

submit to the Boards:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner, each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens, each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
 - (6) Any continuing competency activities;
2. The reinstatement fee of \$75; and

3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after her/his credential was revoked, the Department may assess an administrative penalty pursuant to 172 NAC 103-006 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after her/his credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 103-005.05G.

103-005.05A The Boards will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Boards may:

1. Request the Department to investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§ 71-147 and 71-148;
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Boards, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Boards;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

103-005.05B The petition to recommend reinstatement will be considered at the next meeting of the Boards that is held, but not earlier than 30 days after the petition is filed.

103-005.05C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Boards within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Boards.

103-005.05D If the Boards recommend reinstatement of the credential, no public hearing need be held on the petition.

103-005.05E Prior to any recommendation by the Boards against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Boards, if formally requested by the petitioner.

103-005.05E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Boards' notification of an opportunity for a formal public hearing.

103-005.05E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Boards may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

103-005.05F If the petitioner formally requests a formal public hearing or if the Boards otherwise hold such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

103-005.05G The Boards review the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Boards will submit their recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

103-005.05G1 If the Boards recommend reinstatement of the credential:

1. The Boards will send their recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit to the Department an application for reinstatement by the Director within 30 days of receipt of the Boards' recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Boards' recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Boards, including any finding of fact or order of the Boards;
 - c. The petition submitted to the Boards;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Boards and the petitioner.

4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Boards. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Boards' recommendation. A decision by the Director to reverse or modify the Boards' recommendation will be based on finding that the Boards' recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Boards' recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

103-005.05G2 If the Boards recommend reinstatement of the credential with terms, conditions, or restrictions:

1. The Boards will send their recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Boards' recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Boards' recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Boards, including any finding of fact or order of the Boards;
 - c. The petition submitted to the Boards;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Boards and the petitioner.

4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Boards. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Boards' recommendation. A decision by the Director to reverse or modify the Boards' recommendation will be based on finding that the Boards' recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Boards' recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

103-005.05G3 If the Boards deny reinstatement, the Boards will send to the petitioner a written notice of the Boards' recommendation to deny reinstatement. The petitioner may appeal the Boards' decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

103-005.06 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

103-005.06A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. § 71-161.11 may be restored at the discretion of the Department.

103-005.06A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:

- [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
- f. Any continuing competency activities; and
 - g. Attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

103-005.06A2 If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

- 1. Assess an administrative penalty pursuant to 172 NAC 103-006;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

103-005.06A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while her/his credential was voluntarily surrendered or limited, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request for restoration of the credential; or
- 3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

103-005.06A4 In either event pursuant to 172 NAC 103-005.06A2 or 103-005.06A3 a notice and the opportunity for hearing will be given to the applicant.

103-005.06A5 The Department will act within 150 days on all completed applications.

103-005.07 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

103-005.07A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

103-005.07B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 103-006.

103-005.08 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

103-006 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practices without a certificate. Practice without a certificate for the purpose of this regulation means practice:

1. Prior to the issuance of a certificate;
2. Following the expiration of a certificate; or
3. Prior to the reinstatement of a certificate.

103-006.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a certificate:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaging in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a practice site and announces or advertises that the site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact is presumed to be true unless disproved by some evidence to the contrary.

103-006.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a certificate. To assess

such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

103-006.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

103-007 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A CERTIFICATE

103-007.01 The Department, upon the recommendation of the Boards, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against certificates for any of the acts or offenses set forth in Neb. Rev Stat. §§ 71-147 and 71-148 of the Uniform Licensing Law.

103-007.02 The Department, upon the recommendation of the Boards, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against certificates for unprofessional conduct, which term includes but is not limited to:

1. Misappropriating medications, supplies, or personal items of a patient or agency;
2. Violating the confidentiality of information or knowledge concerning the patient;
3. Committing any act which endangers patient safety or welfare;
4. Practice of the profession without a current active certificate or temporary permit;
5. Failure of a certificate holder, who is the subject of a disciplinary investigation, to furnish the Boards or their investigator with requested information or requested documents;
6. Falsification or misrepresentation of material facts in attempting to procure employment as a CRNA;
7. Intentional falsification of material facts in a material document connected with practice of nursing in the expanded role of anesthesia;
8. Kissing, fondling, touching or engaging in any other activities of a sexual nature with a patient; and

the

9. Violating any term of probation, condition, or limitation imposed on the certificate holder by the Department.

103-008 SCHEDULE OF FEES: The following fees have been set by the Department by this regulation to be paid as a condition of issuance of certification.

103-008.01 Initial Certification Fee: By an applicant for a certificate to practice as a CRNA, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1 for each year remaining in the current biennial renewal period.

103-008.02 Proration of Initial Certification Fee: For issuance of a certificate that will expire within 180 days after its initial issuance date, the fee of \$25. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1. The certificate will be valid until the next subsequent renewal date.

103-008.03 Certificate Renewal Fee: By an applicant for renewal on a biennial basis of a certificate to practice as a CRNA, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$2.

103-008.04 Late Fee: By an applicant for a renewal on a biennial basis of a certificate to practice as a CRNA, who fails to pay the renewal fee on or before the expiration date of his/her certificate, the fee of \$25 as a late fee in addition to the renewal fee.

103-008.05 Certification of Certificate Fee: For issuance of a certification of a certificate, the fee of \$25. The certification includes information regarding:

1. The basis on which a certificate was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the certificate; and
4. The current status of the certificate.

103-008.06 Verification of Certificate Fee: For issuance of a verification of a certificate, the fee of \$5. The verification includes written confirmation as to whether a certificate was valid at the time the request was made.

103-008.07 Duplicate Certificate Fee: For a duplicate of an original certificate document or reissued certificate, the fee of \$10.

103-008.08 Administrative Fee: For a denied certificate or a withdrawn application, an administrative fee of \$25 will be retained by the Department.

103-008.09 Reinstatement Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 104

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 104 PRACTICE OF CERTIFIED NURSE MIDWIVES

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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 104

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 104 PRACTICE OF CERTIFIED NURSE MIDWIVES

104-001 SCOPE AND AUTHORITY: These regulations govern the practice of certified nurse midwives in the State of Nebraska. These regulations are authorized by and implement Neb. Rev. Stat. §§ 71-147 to 71-148, 71-150 to 71-162.05, 71-164.01, 71-172.02, and 71-1,132.20; and 71-1738 to 71-1765, also known as the Nebraska Certified Nurse Midwifery Practice Act.

104-002 DEFINITIONS

Act means the Nebraska Certified Nurse Midwifery Practice Act.

Approved nurse midwifery education program means a program approved by the American College of Nurse-Midwives, Division of Accreditation.

Approved examination means the National Midwifery Certification Examination given by the American College of Nurse-Midwives Certification Council, Inc.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Boards means the Board of Nursing and Board of Examiners in Medicine and Surgery.

Completed application means all of the information requested in 172 NAC 104-003.02 Item 1 has been provided and attested and the appropriate fees and all required documentation have been submitted.

Continuing education means planned, organized, systematic, and evaluative educational experiences designed to maintain or enhance the knowledge, skills, and/or attitudes of certified nurse midwives for nursing practice in the expanded role of nurse midwifery.

Council means the American College of Nurse-Midwives Certification Council.

CNM means a Certified Nurse Midwife who is a registered nurse and who meets all the criteria for certification and holds a current certification from the State of Nebraska to practice certified nurse midwifery.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Lapsed status means the designation given to a certificate holder who requests this status or who fails to renew his/her certificate.

Licensed Practitioner means any physician licensed to practice pursuant to Neb. Rev. Stat. § 71-1,104 and whose practice includes obstetrics.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 104.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

Official record means a document that carries the seal, signature or other notation indicating that the document was issued by the primary source.

Official transcript means a transcript issued by and under the original seal of the educational institution.

Protocol is an instrument that guides the nurse midwife in the collection of data and implementation of a treatment within identified parameters.

Reentry program means an organized approach to learning that results in current knowledge for nursing practice in the expanded role of nurse midwifery.

Reinstatement means the return to active status and the restoration of the authority to practice to a certificate holder who was previously licensed in this state.

104-003 REQUIREMENTS FOR ISSUANCE OF A CERTIFICATE: A person may practice as a CNM in Nebraska only if s/he holds a Nebraska certificate or a temporary permit. This requirement does not prohibit persons identified in Neb. Rev. Stat. § 71-1765 from performance of the functions as limited by that section. The criteria for issuance of a certificate and temporary permit, and the documents required in applying are set forth below.

104-003.01 Requirements for Certification: The applicant must:

1. Be licensed as a registered nurse in the State of Nebraska or have the authority to practice pursuant to the Nurse Licensure Compact;
2. Have successfully completed an approved nurse midwifery education program;

3. Have passed an approved examination;
4. Meet the requirements for continuing competency as set forth in 72 NAC 104-004; and
5. Pay the appropriate fee.

104-003.02 Applicants for certification must submit to the Department:

1. A completed written application which:
 - a. Is verified by the applicant's oath; and
 - b. Contains the following information about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Gender;
 - (4) Date of birth;
 - (5) Place of birth;
 - (6) Social Security number;
 - (7) Home and business telephone numbers;
 - (8) Primary state of residence;
 - (9) RN license number in Nebraska or in primary state of residence if primary state of residence is another compact state;
 - (10) Name and location of the approved course of study in midwifery from which the applicant graduated;
 - (11) Date of program completion;
 - (12) Date of successful examination by the American College of Nurse-Midwives or the date scheduled to take the examination;
 - (13) A statement that the applicant has practiced or graduated within the previous five years;
 - (14) Identification of employment as a nurse midwife in the past five years, if applicable;
 - (15) A statement describing all:
 - (a) Pending charges which could result in a felony or misdemeanor conviction;
 - (b) Felony or misdemeanor convictions;
 - (c) Denials, discipline, or pending discipline of a license in any health care profession; and
 - (d) Denials of admission to take a licensing examination in any health care profession;
2. An official transcript showing completion of the requirements for an approved nurse midwifery education program.
 - a. Any applicant who indicates on her/his application that s/he has not completed an approved nurse midwifery education program or practiced in the advanced role of nurse midwifery within the five years immediately preceding application, will be required to meet the continuing competency requirements specified in 172 NAC 104-004;
3. Documentation of having passed an approved examination by letter or other official record from the Council;

4. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license.
 - (1) Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty pursuant to 172 NAC 104-010, or such other action as provided in the statutes and regulations governing the credential; and
5. The required certification fee.
 - a. When a certificate will expire within 180 days after its initial issuance date, the Department will collect \$25 and if applicable the Licensee Assistance Program fee of \$1, and the certificate will be valid until the next subsequent renewal date.

104-003.03 Any applicant who indicates on his/her application that s/he has:

1. Been convicted or has pending charges of a misdemeanor or felony other than a minor traffic violation;
2. Has had his/her credential to practice in a health care profession denied or disciplined or has any pending disciplinary action or denial; or
3. Been denied admission to take the licensing examination in any health care profession, will be required to submit:
 - a. A full explanation of the conviction, denial, and/or disciplinary action and/or pending charges, denial, and/or disciplinary action;
 - b. Official records as requested by the Department related to the conviction, denial, or discipline, for example: probation reports, court records, disciplinary reports, or chemical dependency evaluation.

104-003.04 The Department or the Boards may require these applicants to undergo an interview by Department staff or the Boards at their discretion in order to clarify or amplify information contained in the official record.

104-003.05 Temporary Permit: Applicants for certification as a CNM may be granted a temporary permit. The conditions under which a temporary permit may be issued and the documents required are set forth below.

104-003.05A Applicants who have not previously taken an approved examination and who meet all of the criteria for certification as a CNM except having passed an approved examination may be granted a temporary permit pending the results of the first examination following graduation.

1. For applicants who have not previously taken an approved examination, the examination required for certification in the State of Nebraska will be considered to be the first examination following graduation.

2. Only applicants who have submitted a completed application, the required fee for certification, and documentation of continuing competency and who have completed an approved nurse midwifery education program and have registered for the examination will be issued a temporary permit.
 - a. Documentation of completion of an approved nurse midwifery program may be by official transcript or by letter from the Dean/Chairperson of the education program.
 - b. Proof of registration for the examination must be by letter to the Department from the Council or a notarized copy of a document from the Council to the applicant stating that registration is completed and identifying the date of the examination.
3. The temporary permit is issued for 60 days or until the results of the examination are known.
 - a. The temporary permit is null and void if the applicant fails the examination.
 - b. The temporary permit is null and void if the applicant fails to take the scheduled examination, unless extended at the discretion of the Boards. Circumstances which may result in extension of the permit include illness/injury of self or immediate family member, or death of an immediate family member immediately prior to or on the date(s) of the examination.
 - (1) A written request for extension of the permit must be made to the Boards explaining the circumstances under which the extension is requested.

104-003.05B Applicants who meet all of the criteria for certification as a CNM and who are lawfully authorized to practice as a CNM in another state may be issued a temporary permit pending completion of the application for a Nebraska certificate.

1. Only applicants who have submitted a completed application and the required certification fee, and evidence of current authorization by another state will be issued a temporary permit.
 - a. Evidence of lawful authorization in another state may be documented by submission of a notarized copy of a current certificate/license in another state or other official record.
2. The temporary permit is issued for up to 120 days and is valid until the certificate is issued, until the expiration date, or until any final decision is made to deny the certificate unless the permit is extended at the discretion of the Boards for up to one year.

104-003.05C Applicants who meet all of the criteria for certification as a CNM except the continuing competency requirements and who require a reentry program or supervised practice in accordance with Neb. Rev. Stat. § 71-1755(4) may be issued a temporary permit.

EFFECTIVE
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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 104

1. Only applicants who have submitted a completed application and the required certification fee, and who have completed an approved nurse midwifery education program will be issued a temporary permit.
2. A temporary permit issued pursuant to this section is valid for clinical practice undertaken as part of a reentry program and only for the duration of the program, or for clinical practice under the supervision of a physician or CNM and for a specified time determined by the Boards.

104-003.06 The Department will act within 150 days upon all completed applications for certification.

104-003.07 If the Department denies issuance of a certificate, the applicant will be given an opportunity for an administrative hearing before the Department conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

104-004 CONTINUING COMPETENCY: The criteria for demonstration of continuing competency and the documentation required are set forth below:

104-004.01 By an applicant seeking certification:

1. Completion of an approved nurse midwifery education program; or
2. Practice as a nurse midwife within the five years immediately preceding application.

104-004.02 By a certificate holder seeking to renew or reinstate a CNM certificate:

104-004.02A Submission of a letter of reference from a licensed practitioner or CNM stating:

1. That the applicant is currently competent to practice as a CNM; and
2. That the referencing licensed practitioner or CNM bases such statement on observance by that licensed practitioner or CNM of the applicant's practice of at least 850 hours of practice as a CNM within the previous two years; or

104-004.02B Submission of a letter of reference from a licensed practitioner or CNM stating:

1. That the applicant is currently competent to practice as a CNM; and
2. That the referencing licensed practitioner or CNM bases such statement on observance by that licensed practitioner or CNM of the applicant's practice of at least 2080 hours of practice as a CNM within the previous five years.

104-004.02C Applicants who are graduates within the previous two years are not required to provide further evidence of competence.

104-004.03D Applicants seeking certification, renewal or reinstatement that cannot meet the requirements of 172 NAC 104-004.01 or 004.02 must meet the continuing competency requirement by:

1. Documentation of successful completion of a reentry program within the previous two years that has been approved by the Boards; or
2. Documentation of having passed an approved examination within the two years immediately preceding application and successful completion of supervised practice as specified by the Boards.

104-004.03E Applicants must obtain a temporary permit for any required supervised practice.

104-005 PRACTICE AGREEMENT: Prior to commencing practice as a nurse midwife, a CNM must have and maintain a written Practice Agreement with a collaborating licensed practitioner. The written agreement must be on file with the Department as a condition of lawful practice.

104-005.01 The practice agreement must include:

1. The name, address, home and business telephone number of the CNM;
2. The name, address, license number, and practice specialty of the collaborating physician(s);
3. The name and address of each office, hospital and any other site at which the CNM will practice;
4. The statement that the collaborating physician(s) is/are responsible for supervision through ready availability for consultation and direction to the CNM when any delegated medical functions are provided by the CNM;
5. The statement that the CNM and collaborating physician(s) have jointly approved protocols for all delegated medical functions which guide the CNM's practice. The protocols must be reviewed, updated, and reaffirmed by both parties on a regular basis and no less frequently than every two years. Protocols must be available at all work sites;
6. The statement that the specific medical functions delegated to the nurse midwife are based upon the educational preparation and continued experience of the nurse midwife. Validation and documentation of education/training and assessment of competency are the responsibility of the nurse midwife and the physician(s). Specific medical functions may include:
 - a. Attending cases of normal childbirth;
 - b. Providing prenatal, intrapartum, and postpartum care;
 - c. Providing normal obstetrical and gynecological services for women;
 - d. Providing care for the newborn immediately following birth; and

- e. Prescribing legend drugs, Schedule II controlled substances for up to 72 hours and for pain control, and Schedule III, IV and V controlled substances; and
- 7. The notarized signatures of the nurse midwife and physician(s) swearing that the statements contained in the practice agreement are true to the best of that person's knowledge and belief and that person has read and understands the practice agreement and affidavit.

104-005.02 Any CNM desiring to alter an approved practice agreement by change in setting, collaborating physician, modification of authorized medical function, or for any other reason must request an approval from the Boards for a new or amended agreement before any change is implemented.

104-006 RENEWAL OF A CERTIFICATE

104-006.01 Expiration: All CNM certificates issued by the Department pursuant to the Act and these regulations expire on October 31 of each even-numbered year unless renewed as provided below.

104-006.02 Renewal Process: Any certificate holder who wishes to renew her/his certificate must:

- 1. Meet the continuing competency requirements as pursuant to 172 NAC 104-004.02;
- 2. Pay the renewal fee as prescribed in 172 NAC 104-009;
- 3. Respond to the following questions:
 - a. Has your license/certification in any profession in another state been revoked, suspended, limited, or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the certificate or during the time period since initial certification in Nebraska if such occurred within the two years prior to the certificate expiration date; and
- 4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the continuing competency requirements within 24 months of the date of expiration. Attestation of meeting continuing competency requirements satisfies the documentation requirement of Neb. Rev. Stat. § 71-1757.
 - d. If any disciplinary action was taken against the applicant's certification by another state, an official copy of the disciplinary action, including charges and disposition; and
 - e. If the applicant has been convicted of a felony or misdemeanor:

- (1) Official Court Record, which includes charges and disposition;
- (2) Copies of arrest records;
- (3) A letter from the applicant explaining the nature of the conviction;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

104-006.03 First Notice: On or before August 1 of even-numbered years the Department will send a renewal notice by means of regular mail to each certificate holder at the certificate holder's last place of residence as noted in the records of the Department. It is the responsibility of the certificate holder prior to the renewal period to notify the Department of any name and/or address changes.

104-006.03A The renewal notice will specify:

1. The name of the certificate holder;
2. The certificate holder's last known address of record;
3. The certification number;
4. The expiration date of the certificate;
5. The renewal fee as prescribed in 172 NAC 104-009;
6. The attestation of continuing competency;
7. The option to place the certificate on lapsed status; and
8. The attestation of primary state of residence.

104-006.03B The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The certificate holder's Social Security number;
4. Attestation of meeting the continuing competency requirements within the required time period; and
5. Documentation relating to misdemeanor or felony conviction(s) or certificate/licensure revocation, suspension, limitation, or disciplinary action (if applicable).

104-006.03C If the certificate holder wishes to place her/his certificate on lapsed status s/he must request that her/his certificate be placed on lapsed status by submitting to the Department the renewal notice with a check in the box marked lapsed.

104-006.03D The Department will notify the certificate holder in writing of the acceptance or denial of the request to allow the certificate to be placed on lapsed status.

104-006-03E A certificate holder whose certificate is on lapsed status must not practice in this state.

104-006.04 Second Notice: The Department will send to each certificate holder who fails to renew her/his certificate or place the license on lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 104-006.03 that specifies:

1. That the certificate holder failed to pay the renewal fee;
2. That the certificate has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That the certificate holder is subject to an administrative penalty pursuant to 172 NAC 104-010 if s/he practices after the expiration date;
5. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency within that time, the certificate will be not be placed on lapsed status; and
6. That upon failure to receive \$25 in addition to the renewal fee, and documentation of continuing competency, the certificate will be lapsed.

104-006.04A The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The certificate holder's Social Security number;
4. Attestation by the certificate holder:
 - a. That s/he has not practiced in Nebraska since the expiration of her/his certificate; or
 - b. To the actual number of days practiced in Nebraska since the expiration of her/his certificate;
5. Attestation of meeting the continuing competency requirements within the required time period; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

104-006.04A1 If the certificate holder wishes to place her/his license on lapsed status, s/he must request that her/his certificate be placed on lapsed status by submitting to the Department the renewal notice with a check in the box marked lapsed.

104-006.04A2 The Department will notify the certificate holder in writing of the acceptance or denial of the request to allow the license to be placed on lapsed status.

104-006.04B When a certificate holder fails, within 30 days of expiration of a certificate, to pay the renewal fee, to submit proof of continuing competency, and/or

to pay an additional late fee of \$25, the Department will automatically lapse the certificate without further notice or hearing and make proper record of the lapsed status.

104-006.04C When the certificate holder has given notification to the Department that s/he desires to have the certificate lapse upon expiration, 172 NAC 104-006.04B will not apply.

104-006.04D The Department may refuse to renew a license for falsification of any information submitted for renewal of a certificate. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-150 to 71-155 and the Department's Rules of Practice and Procedure.

104-006.04E An individual who practices after expiration of her/his certificate is subject to assessment of an administrative penalty pursuant to 172 NAC 104-010, or such other action as provided in the statutes and regulations governing the certificate.

104-007 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

104-007.01 Eligibility

104-007.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Suspended or limited for disciplinary reasons; or
3. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

104-007.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

104-007.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 104-010, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

104-007.02 Requirements to Move a Credential from Lapsed to Active Status: A person whose credential has been placed on lapsed status may have her/his credential moved from lapsed to active status upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and late fee; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

104-007.03 Procedures for Moving from Lapsed to Active Status: To move a credential from lapsed status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

- (3) Disciplinary charges pending against any professional credential held by the applicant; and
 - f. Verification that the continuing competency requirements for renewal have been met;
- 2. The renewal fee and late fee; and
 - 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

104-007.03A If an applicant has practiced while her/his credential was lapsed the Department may:

- 1. Assess an administrative penalty pursuant to 172 NAC 104-010;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to move the credential from lapsed to active status; or
- 4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

104-007.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request to move the credential from lapsed to active status; or
- 3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

104-007.03C In either event pursuant to 172 NAC 104-007.03A or 104-007.03B, a notice and the opportunity for hearing will be given to the applicant.

104-007.03D The Department will act within 150 days on all completed applications.

104-007.04 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

- 1. Petition the Boards for reinstatement:
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and

- b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
2. Pay the reinstatement fee of \$75; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

104-007.05 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An application for reinstatement will be consecutively reviewed by both Boards according to the procedures set forth in this section. An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Boards:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner, each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and

- [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
 - (6) Any continuing competency activities;
2. The reinstatement fee of \$75; and
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after her/his credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 104-010 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after her/his credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 104-007.05G.

104-007.05A The Boards will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Boards may:

1. Request the Department to investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§ 71-147 and 71-148;
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Boards, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Boards;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

104-007.05B The petition to recommend reinstatement will be considered at the next meeting of the Boards that is held, but not earlier than 30 days after the petition is filed.

104-007.05C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Boards within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Boards.

104-007.05D If the Boards recommend reinstatement of the credential, no public hearing need be held on the petition.

104-007.05E Prior to any recommendation by the Boards against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Boards, if formally requested by the petitioner.

104-007.05E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Boards' notification of an opportunity for a formal public hearing.

104-007.05E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Boards may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

104-007.05F If the petitioner formally requests a formal public hearing or if the Boards otherwise hold such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

104-007.05G The Boards review the petition to recommend reinstatement, any examination or investigatory information, and the record of hearing, if one was held. The Boards will submit their recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

104-007.05G1 If the Boards recommend reinstatement of the credential:

1. The Boards will send their recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit to the Department an application for reinstatement by the Director within 30 days of receipt of the Boards' recommendation.

- a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Boards' recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Boards, including any finding of fact or order of the Boards;
 - c. The petition submitted to the Boards;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Boards and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Boards. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Boards' recommendation. A decision by the Director to reverse or modify the Boards' recommendation will be based on finding that the Boards' recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Boards' recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

104-007.05G2 If the Boards recommend reinstatement of the credential with terms, conditions, or restrictions:

1. The Boards will send their recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Boards' recommendation.
 - a. The application must include:

- (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Boards' recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Boards, including any finding of fact or order of the Boards;
 - c. The petition submitted to the Boards;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Boards and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Boards. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Boards' recommendation. A decision by the Director to reverse or modify the Boards' recommendation will be based on finding that the Boards' recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Boards' recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

104-007.05G3 If the Boards deny reinstatement, the Boards will send to the petitioner a written notice of the Boards' recommendation to deny reinstatement. The petitioner may appeal the Boards' decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

104-007.06 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

104-007.06A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

104-007.06A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
 - f. Any continuing competency activities; and
 - g. Attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

104-007.06A2 If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 104-010;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

104-007.06A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while her/his credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

104-007.06A4 In either event pursuant to 172 NAC 104-007.06A2 or 104-007.06A3 a notice and the opportunity for hearing will be given to the applicant.

104-007.06A5 The Department will act within 150 days on all completed applications.

104-007.07 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

104-007.07A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

104-007.07B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 104-010.

104-007.08 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

104-008 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A CERTIFICATE

104-008.01 The Department, upon the recommendation of the Boards, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against certificates for any of the acts or offenses set forth in Neb. Rev. Stat. §§ 71-147 and 71-148 of the Uniform Licensing Law or for violations of the Nebraska Certified Nurse Midwifery Practice Act.

104-008.02 The Department, upon the recommendation of the Boards, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against certificates for unprofessional conduct, which term includes but is not limited to:

1. Misappropriating medications, supplies, or personal items of a patient or agency;
2. Violating the confidentiality of information or knowledge concerning the patient;
3. Committing any act which endangers patient safety or welfare;
4. Failure to seek consultation and collaboration or failure to refer a patient when warranted by patient condition;
5. Practice of the profession without a current active certificate or temporary permit;
6. Failure of a certificate holder, who is the subject of a disciplinary investigation, to furnish the Boards or their investigator with requested information or requested documents;
7. Falsification or misrepresentation of material facts in attempting to procure employment as a CNM;
8. Intentional falsification of material facts in a material document connected with the practice of nursing in the expanded role of nurse midwifery;
9. Kissing, fondling, touching or engaging in any other activities of a sexual nature with a patient; and
10. Violating any term of probation, condition, or limitation imposed on the certificate holder by the Department.

104-009 SCHEDULE OF FEES: The following fees have been set by the Department by this regulation to be paid as a condition of issuance of certification.

104-009.01 Initial Certification Fee: By an applicant for a certificate to practice as a CNM, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1 for each year remaining in the current biennial period.

104-009.02 Proration of Initial Certification Fee: For issuance of a certificate that will expire within 180 days after its initial issuance date, a fee of \$25. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1. The certificate will be valid until the next subsequent renewal date.

104-009.03 Certificate Renewal Fee: By an applicant for renewal on a biennial basis of a certificate to practice as a CNM, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$2.

104-009.04 Certificate Reinstatement Fee: By an applicant for reinstatement of a certificate to practice as a CNM, the fee of \$30 in addition to the renewal fee.

104-009.05 Late Fee: By an applicant for a renewal on a biennial basis of a certificate to practice as a CNM, who fails to pay the renewal fee on or before the expiration date of his/her certificate, the fee of \$25 as a late fee in addition to the renewal fee.

104-009.06 Certification of Certificate Fee: For issuance of a certification of a certificate, the fee of \$25. The certification includes information regarding:

1. The basis on which the certificate was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the certificate; and
4. The current status of the certificate.

104-009.07 Verification of Certificate Fee: For issuance of a verification of a certificate, the fee of \$5. The verification includes written confirmation as to whether the certificate was valid at the time the request was made.

104-009.08 Duplicate Certificate Fee: For a duplicate of an original certificate document or reissued certificate, the fee of \$10.

104-009.09 Administrative Fee: For a denied certificate or a withdrawn application, an administrative fee of \$25 will be retained by the Department.

104-009.10 Reinstatement Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

104-010 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practices without a certificate. Practice without a certificate for the purpose of this regulation means practice:

1. Prior to the issuance of a certificate;
2. Following the expiration of a certificate; or
3. Prior to the reinstatement of a certificate.

104-010.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a certificate:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaging in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a practice site and announces or advertises that the site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact is presumed to be true unless disproved by some evidence to the contrary.

104-010.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a certificate. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

104-010.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department must hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's Rules of Practice and Procedure.

EFFECTIVE DATE
January 3, 2005

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 105

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 105

PAID DINING ASSISTANTS

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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 105

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 105 PAID DINING ASSISTANTS

105-001 SCOPE AND AUTHORITY: These regulations implement Neb. Rev. Stat. §§ 71-6038 to 71-6042, and identify the circumstances and conditions under which paid dining assistants may feed residents in nursing homes.

105-002 DEFINITIONS

Complicated feeding problems include, but are not limited to –

1. Difficulty swallowing;
2. Recurrent lung aspirations; and
3. Tube or parenteral or intravenous feedings.

Curriculum means a detailed outline of the course content including specific content areas.

Department means the Department of Health and Human Services Regulation and Licensure.

Immediately available means that the registered or licensed practical nurse is available to respond at any time in person or by electronic communication, including but not limited to pagers, intercom or call light systems, telephone and cell phones. This DOES NOT mean that the registered or licensed practical nurse must be in the same room, or “looking over the shoulder” of the paid dining assistant.

Nursing assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents other than a paid dining assistant or a licensed registered or practical nurse.

Nursing home means any facility or a distinct part of any facility that provides care as defined in Neb. Rev. Stat. §§ 71-420, 71-421, 71-422, 71-424, and 71-429. This includes intermediate care facilities, intermediate care facilities for persons with mental retardation, long-term care hospitals, nursing facilities, and skilled nursing facilities.

Paid dining assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the feeding of residents other than a nursing assistant or a licensed registered or practical nurse.

Supervision means the provision of oversight to a paid dining assistant by a registered or licensed practical nurse who is on duty, physically present in the nursing home, and immediately available.

Supervisor means any person employed by the nursing home in a supervisory nursing capacity and who would be available for the paid dining assistant to notify in an emergency situation related to feeding residents.

105-003 QUALIFICATIONS OF PAID DINING ASSISTANTS: A person may act as a paid dining assistant in a nursing home only if s/he:

1. Is at least 16 years of age;
2. Is able to speak and understand the English language or a language understood by the nursing home resident being fed by that person;
3. Has successfully completed at least eight hours of training as prescribed by the Department for paid dining assistants;
4. Has no adverse findings on the Nurse Aide Registry or the Adult Protective Services Central Registry; and
5. Has no adverse findings on the central register of child protection cases maintained by the Department of Health and Human Services if the nursing home which employs the person as a paid dining assistant has at any one time more than one resident under the age of 19 years.

105-004 ROLE OF THE PAID DINING ASSISTANT: Paid dining assistants are single-task workers who:

1. Only feed residents who have no complicated feeding problems as selected by the nursing home based on the resident's latest assessment, plan of care, and determinations by the charge nurse that the resident's condition at the time of such feeding meets that plan of care and that the paid dining assistant is competent to feed that particular resident;
2. Work under the supervision of a licensed registered or practical nurse who is on duty, physically present in the nursing home, and immediately available; and
3. Must call a supervisor for help in an emergency.

Paid dining assistants must not perform nursing or nursing-related services. Paid dining assistants are only to supplement and not to substitute for licensed registered or practical nurses or nursing assistants.

105-005 COURSE, CURRICULUM AND TRAINING REQUIREMENTS FOR PAID DINING ASSISTANTS: Paid dining assistant courses must be approved by the Department.

105-005.01 The course provider must submit an application to the Department that includes –

1. The name of the entity or person providing the course;
2. The course curriculum, including all course materials that will be utilized to meet the content areas;

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3. A detailed description of methods used to determine competency of each paid dining assistant, including copies of exams and/or procedures;
4. The name and license number of the registered nurse administering the course; and
5. The signature of the registered nurse administering the course.

105-005.02 The course must –

1. Be taught by a single entity or person who meets the requirements of 172 NAC 105;
2. Consist of at least eight documented hours of classroom and clinical instruction;
3. Be administered by a licensed registered nurse who has authority to practice in the State of Nebraska; and
4. Include instruction and competency evaluation in the following content areas:
 - a. Feeding techniques, including but not limited to levels of assistance, cueing, proper positioning, and use of assistive devices as appropriate;
 - b. Assistance with feeding and hydration, including but not limited to basic nutrition, age-related changes related to feeding and nutrition, dehydration, weight loss, therapeutic diets and dining preparation;
 - c. Communication and interpersonal skills, including but not limited to basic communication skills including verbal and non-verbal communication, and barriers to communication;
 - d. Appropriate responses to resident behavior, including but not limited to identification of common behavior problems and suggested management approaches;
 - e. Safety and emergency procedures including but not limited to abdominal thrusts, general safety procedures when feeding residents, fire and disaster procedures, and basic emergency care including falls, scalds and burns, seizures, chest pain, shortness of breath and reporting procedures;
 - f. Infection control, including but not limited to personal hygiene, handwashing, proper handling of food, and standard precautions;
 - g. Resident rights, including but not limited to resident rights as set forth in 175 NAC 12-006.05;
 - h. Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting these changes to the supervisory nurse including but not limited to objective and subjective observations, what to report, to whom to report changes and the time frame of reporting;
 - i. Special needs of residents in relation to feeding who may have additional medical conditions including but not limited to stroke, dementia, physical limitations, and/or mental illness; and

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- j. Abuse and neglect including but not limited to the definitions of such terms and the responsibility to report suspected abuse or neglect as required by Neb. Rev. Stat. §§ 28-372 and 28-711.

105-005.03 Persons completing a paid dining assistant training course must demonstrate the minimum acceptable competency in performing tasks or duties connected with each content area listed in 175 NAC 105-005.02. Minimum competency must be determined by a registered nurse.

105-005.04 Courses may exceed the minimum hour or training requirements set forth in 175 NAC 105.

105-005.05 Any changes to the approved curriculum or the licensed registered nurse administering the paid dining assistant course must be submitted in writing to the Department for prior approval.

105-005.06 Course providers must submit to the Department the following information for each individual who has successfully completed the paid dining assistant course and competency evaluation within 30 days of completion. This information must include the individual's –

1. Name;
2. Address;
3. Date of birth; and
4. Date of course completion and competency evaluation.

105-005.07 Course providers must maintain, for a minimum of two years, course attendance records for each paid dining assistant course taught including –

1. Name and title of the instructor of each course topic;
2. Names of individuals completing the course; and
3. Dates and hours completed in each course topic.

105-006 PAID DINING ASSISTANT REGISTRY: The Department will maintain a registry of persons who successfully complete an approved paid dining assistant course and competency evaluation. The registry will include –

1. Name;
2. Address;
3. Date of birth; and
4. Date of course completion and competency evaluation.

The registry will not contain information regarding abuse or neglect of residents during employment as a paid dining assistant. Complaints and/or registry checks regarding abuse or neglect must be referred to the Adult Protective Services Central Registry and/or the child central registry.

105-007 NURSING HOME REQUIREMENTS: Each nursing home must maintain –

1. A listing of all paid dining assistants employed at the facility and the number of hours worked;
2. For each individual dining assistant –
 - a. Verification of successful completion of an approved paid dining assistant training course and competency evaluation; and
 - b. Verification that the facility has made checks with the Nurse Aide Registry, the Adult Protective Services Central Registry, and the central register of child protection cases maintained by the Department of Health and Human Services if applicable.

105-007.01 Facilities utilizing paid dining assistants must have policies and procedures that address how supervision of paid dining assistants will occur and how paid dining assistants will be identified as single task workers for the purposes of this chapter.

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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 106

TITLE 172
CHAPTER 106

PROFESSIONAL AND OCCUPATIONAL LICENSURE
NURSING HOME ADMINISTRATORS

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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 106

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 106 NURSING HOME ADMINISTRATORS

106-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Nursing Home Administrators as defined by Neb. Rev. Stat. §§ 38-2401 to 38-2425 and the Uniform Credentialing Act.

106-002 DEFINITIONS:

1. Accredited Institution means a postsecondary educational institution approved by the Board and approved by the Council for Higher Education Accreditation (CHEA), or its successor.
2. Act means Neb. Rev. Stat. §§38-2401 to 38-2425, known as the Nursing Home Administrator Practice Act.
3. Active Addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.
4. Active License means a license issued by the Board to an administrator who meets the continuing competency requirements of 172 NAC 106-013 and who submits the fee required by 172 NAC 2.
5. Administrator or Nursing Home Administrator (NHA) means any individual who meets the education and training requirements specified in these regulations and is responsible for planning, organizing, directing, and controlling the operation of a home for the aged or infirm, a nursing home, or an integrated system or who in fact performs such functions, whether or not such functions are shared by one or more other persons. Notwithstanding this subdivision or any other provision of law, the administrator of an intermediate care facility for the mentally retarded may be either a licensed nursing home administrator or a qualified mental retardation professional.

Each administrator must be responsible for and oversee the operation of only one licensed facility or one integrated system, except that an administrator may make application to the Department for approval to be responsible for and oversee the operations of a maximum of 3 licensed facilities if such facilities are located within 2 hours' travel time of each other or to act in the dual role of administrator and department head but not in the dual role of administrator and director of nursing. An administrator responsible for and overseeing the operations of any integrated system is subject to disciplinary action against his/her license for any regulatory violations within each system.

6. Administrator-in-Training (AIT) means a person who is undergoing training to become a nursing home administrator and is directly supervised in a home for the aged or infirm or nursing home by a certified preceptor.
7. Administrator-in-Training Program means completion of at least 640 hours of training and experience, which must be completed in not less than 4 calendar months, and must be at least 20 hours per week. The training and experience must occur in a Nebraska licensed home for the aged or infirm or nursing home, under the direct supervision of a Nebraska certified preceptor.
8. Alcohol or Substance Abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:
 - a. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
 - b. Recurrent alcohol or substance use in situations in which it is physically hazardous;
 - c. Recurrent legal problems related to alcohol or substance use; or
 - d. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.
9. Associate Degree means a two-year post-secondary degree which is composed of 60 to 64 semester hours of academic credit, awarded by an accredited institution of post-secondary education.
10. Attest or Attestation means that the individual declares that all statements on the application are true and complete. Attestation to meeting continuing competency requirements satisfies the documentation requirement of Neb. Rev. Stat. § 38-142.
11. Board means the Board of Nursing Home Administration.
12. Certified Preceptor means a person who is currently licensed by the State of Nebraska as a Nursing Home Administrator, has three years of experience as a Nursing Home Administrator, has practiced within the last two years in a home for the aged or infirm or nursing home, and is approved by the Board to supervise an administrator-in-training or a person in a mentoring program.
13. Complete Application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.
14. Confidential Information means information protected as privileged under applicable law.

15. Continuing Competency means activities to ensure:

- a. The maintenance by a credentialed person of knowledge and skills necessary to competently practice as a nursing home administrator,
- 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. It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. § 38-145.

Continuing education is the method of continuing competency and may be offered under such names as "educational courses", "clinic", "forum", "lecture", "workshops", "training programs" or "seminars".

Continuing Education Hour or Credit means:

- a. Academic Credit: A maximum of 25 hours of continuing education credit per a biennial renewal period may be obtained through academic credit; continuing education obtained through academic credit is calculated as follows:
 - (1) 1 semester hour of academic credit equals 5 continuing education credit hours; and
 - (2) 1 quarter hour of academic credit equals 3 continuing education credit hours;
- b. Home Study, including those transmitted through electronic means: A maximum of 25 hours of continuing education credit per a biennial renewal period may be obtained through home study programs.
- c. Continuing Education Programs: 60 minutes of participation equals 1 continuing education hour/credit.

16. Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

17. Core Educational Requirements means coursework hours necessary for licensure as a nursing home administrator. Graduates from a NAB accredited program meet these core educational requirements. Hours are calculated as follows and must include the following coursework:

- | | | | |
|----|-----------------------|-------------------------------|---------------------|
| a. | Semester hours: | 1 semester hour | = 1 coursework hour |
| b. | Quarter hours: | 1.5 quarter hour | = 1 coursework hour |
| c. | Continuing Education: | 10 continuing education hours | = 1 coursework hour |

Coursework: Must complete a minimum of 3 coursework hours in each of the following areas:

Patient Care and Services. The following are examples of acceptable coursework:

- a. Aging;
- b. Ancillary Health Services;
- c. Developmental Disabilities;
- d. Disease Process;
- e. End of Life Care;
- f. Environmental Health and Safety;
- g. Food Management;
- h. Geriatrics / Gerontology;
- i. Health Care Delivery Systems;
- j. Medical Terminology;
- k. Nursing;
- l. Nutrition;
- m. Pharmacology;
- n. Therapeutic Recreation; or
- o. Similar coursework to those listed above.

Social Services. The following are examples of acceptable coursework:

- a. Case Management;
- b. Death and Dying;
- c. Developments in Aging;
- d. Mental Health;
- e. Psychology (psychological aspects of aging);
- f. Social Gerontology (i.e., theories of aging / social aspects of aging / multi-cultural issues);
- g. Social Services (Medicaid/Medicare);
- h. Social Work;
- i. Sociology;

- j. Spirituality - Human Development / Lifespan;
- k. Therapeutic Recreation; or
- l. Similar coursework to those listed above.

Financial Management. The following are examples of acceptable coursework:

- a. Accounting (payroll, AR, Taxes, HP, general ledger);
- b. Business Management;
- c. Financial Planning;
- d. Management;
- e. Medicare / Medicaid;
- f. Office Management – Statistics; or
- g. Similar course work to those listed above.

Administration. The following are examples of acceptable coursework:

- a. Communication Skills;
- b. Law Courses (i.e., Public Administration, Business Law);
- c. Leadership Skills;
- d. Legal Aspects of Aging;
- e. Marketing / Public Relations;
- f. Management / Organizational Theory;
- g. Organizational Analysis;
- h. Organizational Development;
- i. Personnel / Human Resources / Labor Relations;
- j. Purchasing / Inventory Control;
- k. Strategic / Financial Planning;
- l. TQM / CQI; or
- m. Similar coursework to those listed above.

Rules, Regulations, and Standards Relating to the Operation of a Health Care Facility.

The following are examples of acceptable coursework:

- a. ADA – FMLA;
- b. ANSI Standards;
- c. Ethics;
- d. Labor Laws;
- e. Law;
- f. Life/Safety Code;
- g. Medicare / Medicaid Issues;
- h. NFPA – FSES;

- i. Nursing Home Administrator Regulations;
 - j. Nursing Facility Standards;
 - k. OSHA;
 - l. OBRA; or
 - m. Similar coursework to those listed above.
18. Credential means a license or certificate.
19. Degree means an academic title conferred by universities and colleges as an indication of the completion of a course of study from an accredited institution, or approved as equivalent to a U.S. degree by a foreign educational credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) and any other documentation the Board deems necessary.
20. Degree or Advanced Degree means a baccalaureate, master's or doctorate degree from an accredited institution and which includes studies in the core educational requirements.
21. Degree or Advanced Degree in Health Care means a baccalaureate, master's or doctorate degree from an accredited institution in health care, health care administration or services.
22. Department means the Division of Public Health of the Department of Health and Human Services.
23. Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:
- a. Tolerance as defined by either of the following:
 - (1) A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - (2) A markedly diminished effect with continued use of the same amount of alcohol or the substance;
 - b. Withdrawal as manifested by either of the following:
 - (1) The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - (2) Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
 - c. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
 - d. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
 - e. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;

- f. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
 - g. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.
24. Director means the Director of Public Health of the Division of Public Health or his/her designee.
25. Division means the Division of Public Health.
26. Home for the Aged or Infirm or Nursing Home means any institution or facility licensed as a nursing facility or a skilled nursing facility by the Department pursuant to the Health Care Facility Licensure Act, whether proprietary or nonprofit, including, but not limited to, homes for the aged or infirm owned or administered by the federal or state government or an agency or political subdivision thereof.
27. Inactive License means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent himself/herself as having an active credential.
28. Integrated System means a health and human services organization offering different levels of licensed care or treatment on the same premises.
29. Internship means that aspect of the educational program of an associate degree in long-term care administration which meets the requirements specified in the definition of Administrator-in-Training Program or Mentoring Program in 172 NAC 106-002 and allows for practical experience in a home for the aged or infirm, or nursing home and occurs under the supervision of a certified preceptor.
30. License means an authorization issued by the Department to an individual to engage in a profession to provide services which would otherwise be unlawful in this state in the absence of such authorization.
31. Mentoring Program means completion of at least 640 hours of training and experience, which must be completed in not less than 4 calendar months, and must be at least 20 hours per week. The program must occur in a Nebraska licensed home for the aged or infirm or nursing home, under the supervision of a Nebraska certified preceptor. The certified preceptor in a mentoring program need not be at such facility during the period of such supervision but must be available to assist with questions or problems as needed. The supervisor must meet with the person being supervised in a mentoring program at least 1 time per month at the facility where the training is occurring. A mentoring program may be gained as an internship which is part of a degree or advanced degree or part of a degree or advanced degree in health care. A person in a mentoring program may apply for a provisional license.
32. Mentoring Program Trainee means a person in a learner role who is actively involved in a program of supervised professional training and is supervised by a Nebraska certified

preceptor aimed at developing and refining confidence and proficiency in the field of Nursing Home Administration.

33. Military Service means full-time duty in the active military service of the United States, or a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a service member is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)
34. NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 106.
35. Nursing Degree means a degree or diploma in nursing from an accredited program of professional nursing approved by the Board of Nursing.
36. Nursing Home means any institution or facility licensed as a nursing facility or skilled nursing facility by the Department pursuant to the Health Care Facility Licensure Act, whether proprietary or nonprofit, including, but not limited to, homes for the aged or infirm owned or administered by the federal or state government or an agency or political subdivision thereof.
37. Official Transcript means issued by and under the original seal of the educational institution.
38. Pattern of Incompetent or Negligent Conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.
39. Preceptor Training Course means a training course as approved by the Board which must include, but is not limited to, review of required paperwork for the Administrator-In-Training and training/teaching techniques.
40. Previous Work Experience means at least 2 years working full time in a nursing home or home for the aged or infirm or previous work experience in health care administration.
41. Previous Work Experience in Health Care Administration means at least 2 years working full time as:
 - a. An administrator or director of nursing of a hospital with a long-term care unit or assisted living facility; or
 - b. Director of nursing in a nursing home or home for the aged or infirm.
42. Provider means an association, educational institution, individual, group, or individual licensee who presents continuing education programs to licensees.
43. Served in the Regular Armed Forces has the same meaning as "military service" in these regulations.

44. Written Examination means the National Association of Long Term Care Administrator Boards (NAB) licensing examination, which may be administered by computer.

106-003 NURSING HOME ADMINISTRATOR: Any individual who is responsible for planning, organizing, directing and controlling the operation of a home for the aged or infirm, or nursing home must be licensed as a Nursing Home Administrator.

Each administrator must be responsible for and oversee the operation of only one licensed facility or one integrated system, except that an administrator may make application to the Department pursuant to 172 NAC 106-006 for approval to be responsible for and oversee the operations of a maximum of 3 licensed facilities if such facilities are located within 2 hours' travel time of each other or to act in the dual role of administrator and department head but not in the dual role of administrator and director of nursing.

106-003.01 Qualifications: To receive a credential to practice nursing home administration, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment in the United States;
3. Education, Experience and Training: Have one of the following Degree's and, if applicable, core educational areas, experience, and/or training programs:
 - a. Associate Degree: If the applicant has an associate degree, the degree must include the following core educational requirements (see core educational areas defined in 172 NAC 106-002, section 17), and the applicant must complete a mentoring program or administrator-in-training program:
 - (1) Core Educational Areas: Graduates from a National Association of Long Term Care Administrator Boards (NAB) for Nursing Home Administrators accredited program or meets the following core educational requirements as defined in 172 NAC 106-002, section 17.
 - (a) Patient care and services;
 - (b) Social services;
 - (c) Financial management;
 - (d) Administration; and
 - (e) Rules, regulations, and standards relating to the operation of a health care facility; and

- (2) Mentoring Program: If the applicant has at least 2 years working full time in a nursing home for the aged or infirm or previous work experience in health care administration, s/he must complete a mentoring program; or
 - (3) Administrator-in-Training Program: Applicants who do not meet the mentoring program experience requirements will be required to complete the administrator-in-training program.
- b. Degree or Advanced Degree: If the applicant has a baccalaureate, master's, or doctorate degree from an accredited institution, the degree must include the following core educational requirements (core educational areas are defined in 172 NAC 106-002, section 17) and the applicant must complete a mentoring program:
- (1) Core Educational Areas: Graduates from a NAB accredited program or meets these core educational requirements.
 - (a) Patient care and services;
 - (b) Social services;
 - (c) Financial management;
 - (d) Administration; and
 - (e) Rules, regulations and standards relating to the operation of a health care facility.
- c. Degree or Advanced Degree in Health Care: If the applicant has a baccalaureate, master's, or doctorate degree from an accredited institution in health care, health care administration or services, and has previous work experience in health care administration (as defined in 172 NAC 106-002, section 40), s/he is not required to complete either the mentoring program or administrator-in-training program.
- If the applicant with a degree or advanced degree in health care administration does not have "previous work experience in health care administration", s/he must complete a mentoring program.
- d. Nursing Degree: If the applicant has a degree or diploma in nursing from an accredited program of professional nursing approved by the Board of Nursing, and previous work experience in health care administration (as defined in 172 NAC 106-002, section 40), s/he is required to complete the mentoring program.

If the applicant with a nursing degree does not have "previous work experience in health care administration", the degree must include the following core educational requirements (core educational areas

are defined in 172 NAC 106-002, section 17) and the applicant must complete a mentoring program:

- (1) Core Educational Areas - Graduates from a NAB accredited program or meets these core educational requirements.
 - (a) Patient care and services;
 - (b) Social services;
 - (c) Financial management;
 - (d) Administration; and
 - (e) Rules, regulations and standards relating to the operation of a health care facility.

4. Examination: The applicant must have received a score at or above the national pass score as determined by the National Association of Long Term Care Administrator Boards (NAB) for Nursing Home Administrators.

106-003.02 Application: To apply for a credential to practice as a nursing home administrator the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

- a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional); and
- (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for

- permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
- (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- b. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced nursing home administration in Nebraska before submitting the application; or
 - (2) If s/he has practiced nursing home administration in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character;
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
- (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
- b. Evidence of good character, including:
- (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;

The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken

against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;

- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial; and
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);

- (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"); or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
- (1) Name and date of diploma/degree awarded;
 - (2) Name of school, college, university that awarded the diploma/degree; and
 - (3) An official transcript showing receipt of the degree obtained by the applicant;
- f. Core Education: Evidence of completion of the specified core educational areas, if applicable. Evidence must include:
- (1) Name of the course and course number or continuing education provider;
 - (2) Number of hours completed; and
 - (3) Course syllabus or continuing education course description; or
 - (4) Similar documentation;
- g. Previous Work Experience: Verification of previous work experience, if applicable. Such verification must be sent by the employer and include:
- (1) Name of employer and name of facility;
 - (2) Address of facility;
 - (3) Position held by applicant;
 - (4) Dates of employment; and
 - (5) Brief statement of type of work experience; and
- h. Examination Information: If the written examination was taken in a state other than Nebraska, an official score report sent directly from the testing agency or state in which the test was administered; and
- (1) Documentation of examination, including:
 - (a) Name of examination;

- (b) Date of examination; and
 - (c) Rating/grade received; and
- 3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
 - a. Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

106-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

106-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC106-015, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

106-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

106-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 106-018 or such other action as provided in the statutes and regulations governing the credential.

106-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

106-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

106-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

106-004 RECIPROCITY - NURSING HOME ADMINISTRATOR: Any individual who is responsible for planning, organizing, directing and controlling the operation of a home for the aged or infirm, or nursing home must be licensed as a Nursing Home Administrator.

106-004.01 Qualifications: To receive a credential to practice nursing home administration, an individual must meet the following qualifications:

1. License: Hold a current license as a Nursing Home Administrator in another state or jurisdiction;
2. Age and Good Character: Be at least 19 years old and of good character; and
3. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment in the United States.

106-004.02 Application: To apply for a credential to practice as a nursing home administrator, based on reciprocity, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional); and
 - (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;

- (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced nursing home administration in Nebraska before submitting the application; or
 - (2) If s/he has practiced nursing home administration in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character;
- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;

The applicant must have the licensing agency submit to the Department a certification of his/her credential;

- (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of the actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department.
- c. Evidence that the applicant is:
- (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);

- (5) A Certificate of Citizenship (N-560 or N-561);
- (6) Certification of Report of Birth (DS-1350);
- (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
- (8) Certification of Birth Abroad (FS-545 or DS-1350);
- (9) A United States Citizen Identification Card (I-197 or I-179);
- (10) A Northern Mariana Card (I-873);
- (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"); or
- (14) A Form I-94 (Arrival-Departure Record);

3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
 - a. Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

106-004.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

106-004.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC106-015, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

106-004.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

106-004.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 106-018 or such other action as provided in the statutes and regulations governing the credential.

106-004.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

106-004.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

106-004.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

106-005 ADMINISTRATOR FOR A FACILITY CARING FOR PERSONS WITH HEAD INJURIES AND ASSOCIATED DISORDERS: An individual who will function as the administrator of a facility caring primarily for persons with head injuries and associated disorders must be licensed as a nursing home administrator.

106-005.01 Qualifications: To receive a credential to practice nursing home administration of a facility caring primarily for persons with head injuries and associated disorders, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment in the United States;
3. Experience: Have at least 2 years of experience working with persons with head injuries or severe physical disabilities, at least one of which was spent in an administrative capacity; and
4. License: Hold a license as:
 - a. A psychologist with at least a master's degree in psychology from an accredited college or university; and
 - (1) Have specialized training; or
 - (2) One year of experience working with persons with traumatic head injury or severe physical disability; or
 - b. A physician licensed pursuant to the Uniform Credentialing Act to practice medicine and surgery or psychiatry; and
 - (1) Have specialized training; or
 - (2) One year of experience working with persons with traumatic head injury or severe physical disability; or

- c. An educator with at least a master's degree in education from an accredited college or university; and
 - (1) Have specialized training; or
 - (2) One year of experience working with persons with traumatic head injury or severe physical disability; or

- d. A certified social worker, a certified master social worker, or a licensed mental health practitioner certified or licensed pursuant to the Uniform Credentialing Act; and
 - (1) Have at least three years of social work or mental health practice experience and specialized training; or
 - (2) One or more years of experience working with persons who have experienced traumatic head injury or are severely physically disabled.

106-005.02 Application: To apply for a credential to practice as a nursing home administrator the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional); and
- (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a

- (c) credential under the Uniform Credentialing Act; or
A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced nursing home administration in Nebraska before submitting the application; or
 - (2) If s/he has practiced nursing home administration in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character;
- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.

The application must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;

- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial; and
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);

- (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"); or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
- (1) Name and date of diploma/degree awarded;
 - (2) Name of school, college, university that awarded the diploma/degree; and
 - (3) An official transcript showing receipt of the degree obtained by the applicant.
- f. Licensure Category: Evidence of the type of license held by the applicant and the license number as follows:
- (1) Psychologist;
 - (2) Physician;
 - (3) Educator;
 - (4) Certified Social Worker;
 - (5) Certified Master Social Worker; or
 - (6) Licensed Mental Health Practitioner.
- g. Training or Experience:
- (1) Brief description of specialized training received or experience received working with persons with head injuries or severe physical disabilities;
 - (2) Experience in an administrative capacity (must be at least 1 year in duration);
 - (3) Name of facility or institution in which training or experience was completed;
 - (4) Duration of Experience (From – To).
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
- a. Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

106-005.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

106-005.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC106-015, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

106-005.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

106-005.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 106-018 or such other action as provided in the statutes and regulations governing the credential.

106-005.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

106-005.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

106-005.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

106-006 ADMINISTRATOR RESPONSIBLE/OVERSEEING MORE THAN 1 FACILITY OR THE DUAL ROLE OF ADMINISTRATOR AND DEPARTMENT HEAD: An administrator may be responsible for and oversee the operations of up to three licensed facilities or may act in the dual role of administrator and department head (but not in the dual role of administrator and director of nursing) if the Board approves.

106-006.01 Qualifications: To receive approval, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under

the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment in the United States; and

3. Facility Requirements:

- (1) The travel time between the two facilities the farthest apart must not exceed two hours. Travel time must be by motor vehicle. Air time is not considered travel time for this purpose;
- (2) The distance between the two facilities the farthest apart must not exceed 150 miles; and
- (3) The combined total number of beds in the facilities must not exceed 200.

106-006.02 Application: To apply for a approval, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional); and
- (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or

- (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
 - b. Facility Information: Name and address of the facilities for which the administrator will be responsible for overseeing, and the:
 - a. Number of beds per facility;
 - b. Driving time from facility to facility; and
 - c. Number of miles from facility to facility; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character;
- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation; and
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.

The application must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the

right to take an examination, an explanation of the basis for the denial; and

- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
- (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;

c. Evidence that the applicant, is:

- (1) A citizen;
- (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
- (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States; and

d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:

- (1) A U.S. Passport (unexpired or expired);
- (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
- (3) An American Indian Card (I-872);
- (4) A Certificate of Naturalization (N-550 or N-570);
- (5) A Certificate of Citizenship (N-560 or N-561);
- (6) Certification of Report of Birth (DS-1350);
- (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
- (8) Certification of Birth Abroad (FS-545 or DS-1350);

- (9) A United States Citizen Identification Card (I-197 or I-179);
- (10) A Northern Mariana Card (I-873);
- (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"); or
- (14) A Form I-94 (Arrival-Departure Record).

106-006.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

106-006.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC 106-015, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

106-006.05 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 106-018 or such other action as provided in the statutes and regulations governing the credential.

106-006.06 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

106-006.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

106-006.08 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

106-007 ADMINISTRATOR-IN-TRAINING PROGRAM AND MENTORING PROGRAM: Individuals applying for an initial license as a Nursing Home Administrator who must complete an administrator-in-training program or mentoring program, must complete such under the supervision of a certified preceptor. The criteria and documentation required by the Board are set forth below:

106-007.01 Qualifications: To receive a credential to complete an administrator-in-training or mentoring program, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment in the United States; and
3. Education: Applicants must have completed at least 50% of the required core areas specified in 172 NAC 106-002, section 17.

106-007.02 Application: To apply for a credential to begin the administrator-in-training or mentoring program, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record number. Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional); and
 - (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;

- b. Preceptor/Facility Information: The applicant must provide the:
 - (1) Name of preceptor;
 - (2) Name of facility where training will occur;
 - (3) Address of facility; and
 - (4) Telephone number of facility (Optional);
 - c. Dates of Training: The applicant must provide the:
 - (1) Proposed starting date of training;
 - (2) Proposed ending date of training; and
 - (3) Proposed number of hours to be trained per week;
 - d. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced nursing home administration in Nebraska before submitting the application; or
 - (2) If s/he has practiced nursing home administration in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
 - e. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character;
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.

The application must have the licensing agency submit to the Department a certification of his/her credential;

- (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial; and
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;

- (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"); or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
- (1) Name and date of diploma/degree awarded or to be awarded;
or
 - (2) Official transcript from an approved educational program showing completion of at least 50% of the core educational areas and/or official verification of completion of continuing education;
- f. Core Education: Evidence of completion of the specified core educational areas, if applicable. Evidence must include:
- (1) Name of the course and course number or continuing education provider;
 - (2) Number of hours completed; and
 - (3) Course syllabus or continuing education course description;
or
 - (4) Similar documentation; and
- g. Training Agreement: Evidence of an agreement between the certified preceptor and the applicant for at least 640 hours of training and experience, to be gained in not less than 4 months, and not less than 20 hours per week. Such agreement may be submitted on a form provided by the Department or on an alternate form, and must include the following information:
- (1) Statement signed by the preceptor and administrator-in-training or mentoring applicant, agreeing to training for at least 640 hours, gained in not less than 4 months, and gained in not less than 20 hours per week.

If completed in less than 40 hours per week, but not less than 20 hours per week, a proposed schedule of training to meet the Administrator-in-Training or mentoring period; and

3. Fee: The required administrator-in-training program or mentoring program fee as specified in 172 NAC 2.

106-007.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

106-007.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC 106-015, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

106-007.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

106-007.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 106-018 or such other action as provided in the statutes and regulations governing the credential.

106-007.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

106-007.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

106-007.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

106-008 ADMINISTRATOR-IN-TRAINING OR MENTORING PROGRAM REPORTING REQUIREMENTS

106-008.01 Requirements: Upon approval by the Board of an administrator-in-training or mentoring program, the certified preceptor and the trainee must:

1. Submit to the Department: A progress report describing the nature and extent of the training on a form provided by the Department, or on an alternate format, which includes the following information. Progress reports must be submitted by the 5th day of each calendar month of the duration of the training.
 - a. General Information:
 - (1) Name of trainee;
 - (2) Name of nursing home where training is being completed; and
 - (3) Nursing home address;
 - b. Training Completed for the Month of Report:
 - (1) Dates training period covers (From – To);
 - (2) Hours worked per week; and
 - (3) Total Hours worked in the reporting period;
 - c. Training Area: Dates for which training was provided in the following areas:
 - (1) General Administration:
 - (a) Organization of the Facility (Must be inclusive of all of the following):
 - [1] Administrative Purpose and Function;
 - [2] Governing Body or Advisory Board and Organizational Chart
 - [3] By-Laws; and
 - [4] Quality Assurance;
 - (b) Personnel (Must be inclusive of all of the following):
 - [1] Personnel Policies and Procedures;
 - [2] Orientation and Staff Development;
 - [3] Employee Benefits and Insurance Package;
 - [4] Recruitment/Retention/and Turnover;
 - [5] Wage and Hour;
 - [6] Personnel Files (Registration and Licensure);
 - [7] Performance Evaluations;
 - [8] Labor Laws:
 - [a] Personnel Handbook;
 - [b] EEO Information;
 - [c] Employment / Unemployment;
 - [d] Worker's Compensation;
 - [e] Union Activity;
 - [f] Release of Information;
 - [g] Required Posters;
 - [h] American with Disabilities Act (ADA);
 - [i] Family Medical Leave Act;

- [j] Staffing Agencies;
 - [k] Nursing Assistant Registry Checks;
 - [l] Criminal Background Checks;
 - [9] Sexual Harassment;
 - [10] OSHA 200 Log (Bookkeeping Requirements);
 - [11] HIPA/ERISA; and
 - [12] Occupational Allergies (latex gloves, hand soap, etc.);
- (c) Admissions (Must be inclusive of all of the following):
- [1] Pre-Admission;
 - [2] Admitting Policies and Procedures (Patient Self-Determination Act);
 - [3] Transfer Agreement and Admission Policies;
 - [4] MDS and Identification (ID) Screen / Senior Care Options; and
 - [5] Medicaid/Medicare Waiver and Medicare Admission Guidelines;
- (d) Finance (Must be inclusive of all of the following):
- [1] Budget Preparation and Reporting;
 - [2] Evaluation of Financial Statements;
 - [3] Audits/Medicare/Medicaid;
 - [4] Contracts – VA / HMS / Managed Care, etc.;
 - [5] Medicaid / Case Mix Reimbursement / Cost Reports;
 - [6] Medicare/PPS/ Fiscal Intermediaries / Fraud Reimbursement;
 - [7] Taxes;
 - [8] Corporate/Board Compliance Plan; and
 - [9] Long Term Care Insurance;
- (e) Business (Must be inclusive of all of the following):
- [1] Payroll;
 - [2] Inventory;
 - [3] Accounts Receivable/ Turn Around / CPT Codes / HCBPICS Codes / Bad Debt Collection;
 - [4] Accounts Payable (Third Party Payers);
 - [5] Resident Trust Accounts;
 - [6] Bookkeeping Policies and Procedures;
 - [7] Facility Insurance;
 - [8] Vendor Contracting;
 - [9] Benefit Programs; and
 - [10] Record Retention;
- (f) Marketing (Must be inclusive of all of the following):
- [1] Public Relations;
 - [2] Newsletter/Publications;

- [3] Community Relationships;
- [4] Customer Satisfaction; and
- [5] Market Analysis;

(g) Survey Process/Regulatory Compliance -
Federal/State/Local:

- [1] State Operating Manual (SOM);
- [2] Quality Indicators; and
- [3] Enforcement / F-Tags / Scope & Severity /
Sentinel Events / Civil Money Penalties;

(2) Dietary:

- (a) Department Organization; Job Descriptions,
Regulations, Policies and Procedures,
Staffing/Scheduling, and Budgeting;
- (b) Preparation and Service of Food;
- (c) Assessment and Care Plan Involvement / RAPS;
- (d) Food Service Code Book / Food Service Sanitation
Manual / HACCP (Health Administration Culinary Code
Program);
- (e) Infection Control and Sanitation;
- (f) Consultant;
- (g) Ordering and Inventory;
- (h) Weight Loss Protocols; and
- (i) Customer Service / Fine Dining;

(3) Housekeeping and Laundry:

- (a) Department Organization; Job Descriptions,
Regulations, Policies and Procedures,
Staffing/Scheduling, and Budgeting;
- (b) Infection Control and Sanitation;
- (c) Purchasing;
- (d) Equipment Maintenance and Operation; and
- (e) Linen Supply/Storage/Inventory;

(4) Maintenance:

- (a) Department Organization; Job Descriptions,
Regulations, Policies and Procedures,
Staffing/Scheduling, and Budgeting;
- (b) Preventive Maintenance Programs;
- (c) A.N.S.I. Audit and Review;
- (d) Life Safety Code and Facility Systems;
- (e) OSHA; Hazardous Chemical Program; MSDS;
- (f) Emergency Preparedness;

- (g) Grounds and Facility Maintenance;
 - (h) Lockout / Tagout; and
 - (i) Safety Committee;
- (5) Nursing:
- (a) Department Organization; Job Descriptions, Regulations, Policies and Procedures, Staffing/Scheduling, and Budgeting;
 - (b) Nursing Assistant Training / Medication Aide Training;
 - (c) Admission Assessment and MDS / RAPS;
 - (d) Comprehensive Plan of Care;
 - (e) Restorative/Rehabilitation and Nursing;
 - (f) Administrative/Storage/and Documentation of Drugs and Biological;
 - (g) Infection Control – Standard Precautions;
 - (h) Multiple Drug Resistant Organisms;
 - (i) OSHA; Blood Borne Pathogens;
 - (j) Nutrition Observation and Supervision;
 - (k) Incident/Accident Reports; and
 - (l) Medical Terminology;
- (6) Medical and Allied Health:
- (a) Medical Director;
 - (b) Physician Services/Relationships;
 - (c) Allied Health Providers; and
 - (d) Consultant Agreements;
- (7) Medical Records / Health Information Management:
- (a) Department Organization; Job Descriptions, Regulations, Policies and Procedures, Staffing/Scheduling, and Budgeting;
 - (b) Storage and Record Retention;
 - (c) Release of Information Protocols; and
 - (d) ICD-9 Coding;
- (8) Activities:
- (a) Department Organization; Job Descriptions, Regulations, Policies and Procedures Staffing/Scheduling, and Budgeting;
 - (b) Assessment – MDS / RAPS;
 - (c) Comprehensive Care Plan;
 - (d) Activity Calendar / 7 day week;
 - (e) Volunteer Program;

- (f) 1 to 1 Activities and Recordkeeping; and
- (g) Resident Council;

(9) Social Services:

- (a) Department Organization; Job Descriptions, Regulations, Policies and Procedures, Staffing/Scheduling, and Budgeting;
- (b) Pre-Admission and Admission;
- (c) MDS / RAPS and Assessment;
- (d) Comprehensive Care Plan;
- (e) Resident Rights;
- (f) Documentation;
- (g) Psycho-social Needs / Assessment;
- (h) Death and Dying / Grief Bereavement / Hospice Services;
- (i) Discharge Planning;
- (j) Support Services and Agencies;
- (k) Abuse and Neglect / Investigation and Reporting;
- (l) Behavioral Management;
- (m) Family Council; and
- (n) Advanced Directives;

- d. Statement signed by the certified preceptor and trainee stating "I hereby state that the foregoing record of training indicates the true record for the above named administrator-in-training or mentor trainee".

106-008.02 Changes in Preceptor and/or Facility: The Department must be notified of any changes which occur during completion of the administrator-in-training or mentoring program. Such changes may include but are not limited to:

- 1. Change in certified preceptor;
- 2. Interruption in the duration of the approved administrator-in-training or mentoring program; or
- 3. Any request for termination of the administrator-in-training or mentoring program.

106-008.03 Process for Requesting a Change in Preceptor or Facility: The following must be submitted to the Department:

- 1. Application: Changes may be submitted on a form provided by the Department, or on an alternate form, which include:
 - a. Applicant Information:
 - (1) Name;
 - (2) Mailing address;

- (3) Telephone number (Optional); and
- (4) Social Security Number;
- b. Preceptor/Facility Information:
 - (1) Name of preceptor;
 - (2) Name of facility where training will occur;
 - (3) Address of facility; and
 - (4) Telephone number of facility (optional); and
- c. Date and Signature of Administrator-in-Training or Mentor Trainee and Certified Preceptor.

106-008.04 Administrator-in-Training or Mentoring Program Completed in Another State: Applicants who completed a training program in another state must meet the same requirements as 172 NAC 106-007.

106-009 PROVISIONAL LICENSURE AS A NURSING HOME ADMINISTRATOR: If there is a vacancy in the position of licensed administrator of a home for the aged or infirm or nursing home, the owner, governing body, or other appropriate authority of the home for the aged or infirm or nursing home may select a person, not otherwise qualified for licensure as a nursing home administrator, to apply for a provisional license in nursing home administration to serve as the administrator of such facility.

Such license, if issued, will be issued to an individual in order to maintain the daily operations of the facility and may not be renewed.

106-009.01 Qualifications: To receive a credential, an individual must meet the following qualifications:

1. Age and Good Character: Applicant must be at least 21 years of age and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment in the United States;
3. Employment: The provisional licensee can not concurrently complete the administrator-in-training program or provide services which require full dedication to the position, except that a person in a mentoring program may obtain a provisional license at the same time s/he is completing the mentoring program.
4. Unprofessional Conduct, Denial, or Disciplinary Action: Have NO history of unprofessional conduct, denial, or disciplinary action against a nursing home administrator license or a license to practice any other profession by any

lawful licensing authority for reasons outlined in 172 NAC 106-015 and Neb. Rev. Stat. §§38-178 through 38-180.

106-009.02 Duration of License and Extension:

1. Expiration Date: The provisional license will be issued for no more than 180 calendar days.
2. Non-Renewal: The provisional license may not be renewed.
3. Extension: The Board may grant an extension not to exceed 90 days if the person seeking the provisional license is in a mentoring program.

106-009.03 Application: To apply for a credential to practice as a provisional licensed nursing home administrator, the applicant must submit a complete application to the Department. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional); and
 - (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;

- b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced nursing home administration in Nebraska before submitting the application; or
 - (2) If s/he has practiced nursing home administration in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.

The application must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;

- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
- (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department; and
- c. Evidence that the applicant is:
- (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise

- known as a "Green Card");
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"); or
- (14) A Form I-94 (Arrival-Departure Record);
- e. Intended Facility of Employment:
 - (1) Name of facility to be employed;
 - (2) Address of facility;
 - (3) Name of previous administrator of facility;
- 3. Fee: The required licensure fee; such fee is non-refundable; and
- 4. Affidavit of Designation of a Provisional License: Signed affidavit completed by the owner, governing body, or other appropriate authority of the home for the aged or infirm which includes:
 - a. Name of chairperson, governing body, or similar authority of the nursing home;
 - b. Name of applicant requesting a provisional license;
 - c. Name of previous administrator;
 - d. Proposed starting date; and
 - e. Reason for request (death of previous administrator, medical emergency, unexpected resignation of the licensed administrator, other).

106-009.04 Notification of Hiring Licensed Administrator: Upon the hiring of a licensed administrator or expiration of the provisional license in 180 days, whichever ever occurs first, the owner, governing body or other appropriate authority of the home for the aged or infirm must present written verification to the Board of a licensed Nursing Home Administrator assuming the operation of the home for the aged or infirm or nursing home.

106-009.05 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

106-009.06 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC 106-015, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

106-009.07 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be

retained by the Department.

106-009.08 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 106-018 or such other action as provided in the statutes and regulations governing the credential.

106-009.09 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

106-009.10 Address Information: Each credential holder must notify the Department of any change to the address of record.

106-009.11 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

106-010 CERTIFIED PRECEPTOR: A nursing home administrator who wishes to supervise an administrator-in-training or a mentoring program trainee in Nebraska, must obtain a certification as a preceptor.

106-010.01 Qualifications: To receive a credential as certified preceptor, an individual must meet the following qualifications:

1. License: Have a current and active Nebraska Nursing Home Administrators license;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment in the United States;
3. Experience: Have obtained three years of experience as a Nursing Home Administrator in the five years immediately preceding application for certification;
4. Training: Have completed at least an 8 hour preceptor training course approved by the Board, as described in 172 NAC 106-011, and said training must have been completed within the 12 months immediately prior to the application for a preceptor certification; and
5. Disciplinary Action: Has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding

the application for a preceptor certification. At least 1 year must have elapsed following completion of any disciplinary terms and conditions. If any of these actions are taken by the Department during the AIT/Mentoring training supervisory period, the preceptor must terminate the supervision immediately and notify the Department.

106-010.02 Application: To apply for a preceptor credential the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional); and
- (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;

b. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced as a preceptor in Nebraska before submitting the application; or
- (2) If s/he has practiced as a preceptor in Nebraska before

submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and

- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
- (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
- b. Evidence of good character, including:
- (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;

The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial; and
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;

- (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department; and
- c. Evidence that the applicant is:
- (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"); or
 - (14) A Form I-94 (Arrival-Departure Record);

- e. Experience:
 - (1) Name of nursing home(s) where experience occurred;
 - (2) Address of nursing home(s); and
 - (3) Dates of experience (From – To); and
 - f. Preceptor Training Course:
 - (1) Date of preceptor training; and
 - (2) Name of provider of preceptor training.
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
- a. Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

106-010.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

106-010.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC106-015, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

106-010.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

106-010.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 106-018 or such other action as provided in the statutes and regulations governing the credential.

106-010.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

106-010.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

106-010.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

106-011 INITIAL AND/OR RENEWAL PRECEPTOR TRAINING COURSE: The preceptor training course must be at least 8 hours in duration and include the following 4 topic areas, with a minimum of 1 hour per topic area:

1. Culture Change and/or Quality of Life;
2. State Statutes and Federal Regulations relating to Nursing Home Administrators;
3. Leadership and/or Team Building and/or Communication and/or Generation Styles; and
4. Adult Education and/or Train the Trainer and/or Learning Styles.

The remaining 4 hours may include any of the following topics:

1. Learning Styles (personality, how do I learn);
2. State Regulations relating to nursing home facilities (Chapter 12);
3. Personnel Issues (wages, confidentiality, etc);
4. Culture Change (medical vs personal);
5. State and Federal Regulations affecting Nursing Homes (examples: ADA, FMLA, ANSI, NFPI-FSES);
6. Leadership;
7. Public Relations;
8. Team Building;
9. Communication Skills;
10. Train the Trainer;
11. Business and Finances;
12. Adult Education; or
13. Generation Changes.

106-012 EXAMINATION ELIGIBILITY AND PROCEDURES

106-012.01 Written Examination: To be eligible to take the written examination, an applicant must have received written notification from the Department of registration of the administrator-in-training (AIT) or mentoring program or, if an AIT or mentoring program is not required, evidence of completion of the appropriate degree as specified in 172 NAC 106-003. The license will not be issued until the applicant has completed all licensure requirements.

106-012.02 Applicant Responsibility: The applicant must apply to take the examination directly with the National Association of Long Term Care Administrator Boards (NAB) and apply to the Department for approval to take the examination.

106-012.03 Department Responsibilities: The Department will determine the applicant's eligibility to take the examination and notify NAB.

106-012.04 NAB Responsibilities: NAB will notify each eligible candidate for whom it has received the Department's approval.

106-012.05 Failed Examination: An examinee who fails to obtain a passing score on the written examination may retake the examination in accordance with the policies of NAB.

106-012.06 Notification of Examination Results: The Department will notify an applicant in writing of the licensure examination results after receipt of the results from NAB.

106-013 CONTINUING COMPETENCY REQUIREMENTS

106-013.01 CERTIFIED PRECEPTOR - Continuing Competency Requirements: Each nursing home administrator holding an active preceptor certificate within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession

106-013.01A Continuing Competency Requirements: On or before December 31st of every fourth year beginning December 31, 2000 , each nursing home administrator holding an active preceptor certificate in the State of Nebraska must complete at least 8 hours of approved preceptor training during the preceding 48-month period. No more than the total number of approved hours offered in Nebraska will be required during this period.

Except as otherwise provided in 172 NAC 106-014.02A and 106-013.02B, the Department will not renew the credential of any person who has not complied with these requirements. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

106-013.01B Supervising and AIT/Mentor: If a preceptor supervises an AIT/Mentor during the renewal period, s/he will be granted 8 hours of preceptor continuing competency for supervising one AIT/Mentor and a total of 16 hours for supervising 2 AIT's/Mentors during the four-year renewal period. These hours may also be included in the required continuing competency hours to renew the NHA license.

If a preceptor does not supervise an AIT/Mentor during the four-year renewal period, in order to maintain an active preceptor certification s/he must complete an approved preceptor training program as described in 172 NAC 106-011.

106-013.01C Program Criteria: In order for a preceptor training program to be approved, the program must meet the following criteria:

1. The program must be at least 8 hours in duration and include the topic areas identified in 172 NAC 106-011;

2. The program's objectives must relate to the topic areas defined in 172 NAC 106-011;
3. Presenters of programs must be qualified by education, experience or training;
4. Programs must be open to all Preceptors certified by Nebraska who meet the pre-requisites for the program; and
5. Program providers must have a process for verifying attendance.

106-013.01D Procedures For Requesting Approval of a Preceptor Training Program: To obtain approval of a preceptor training program, a provider/and or licensee must submit a request for review and approval. Such request may be submitted on a form provided by the Department or on an alternate format. The following information must be included with the request:

1. A copy of the agenda of the program indicating actual presentation times, lunch and breaks;
2. The name of the program;
3. A description of program objectives;
4. A description of the qualifications of each presenter. Curriculum vita, resume, or documentation of training in a presentation of programs pertaining to nursing home administration may also be submitted as supporting documentation of the presenter's qualifications;
5. The number of hours for which approval is requested;
6. The name, address and telephone number of the provider and its administrator or operating officer;
7. A description of the process the provider uses to verify attendance by the licensee/certificate holder;
8. A sample copy of the documentation the provider issues to the licensee/certificate holder as proof of attendance at the program;
9. The date, time and place of the program;
10. The required continuing education application fee; and
11. Such additional documents or information as the applicant may consider relevant to the request for review and approval of a continuing education program and in compliance with the Act and these regulations.

106-013.01E Incomplete Application: In the event a request for continuing education approval is determined to be incomplete, the Division will notify the applicant of the information necessary to complete the request and retain the information on file, pending receipt of such additional information.

106-013.01F Prior Approval: The Board will act within 60 days upon all completed requests for approval of a preceptor training program and will notify the applicant.

106-013.01G Advertisement of Approvals: After the Board has granted its written approval of the program, the provider is entitled to state upon its publications: "This

preceptor training program is approved for _____ [number of hours approved] Nebraska Nursing Home Administration continuing education hours."

106-013.01H Continuing Education Certificate of Completion: Each provider of an approved continuing education program must furnish to each person completing the program a certificate of completion.

1. Each certificate must include the following:
 - a. Program name;
 - b. Name of the participant and his or her license/certificate number;
 - c. Provider's name;
 - d. Date the program began and ended; and
 - e. Number of hours received by the licensee/certificate holder, not to exceed the number of hours granted for the program.
2. Presentation of the certificate constitutes evidence that the person complied with all requirements of the program and completed the program.

106-013.01I Program Monitoring: The provider must employ a reliable system to monitor the physical presence of participants throughout the entire program. If a participant chooses not to participate in the entire program, the certificate of attendance must reflect the participant's actual hours of attendance.

106-013.01J Denial of Continuing Education Programs: The Board may deny a request for approval of a preceptor training program, or suspend or revoke approval of such.

106-013.01J(1) A program may be denied on any of the following grounds:

1. Fraud or misrepresentation of information in a request;
2. Program content or the presenter's qualifications fail to meet requirements specified in 172 NAC 106-013;
3. The program's objectives do not relate to the practice of Nursing Home Administration;
4. Failure to meet the requirements of 172 NAC 106-013; and
5. Failure to reflect participant's actual hours of attendance upon the certificate issued.

106-013.01K The Board may grant or deny a request for approval of continuing education programs. Should the Board determine to deny a request, the Division will send to the applicant by either certified or registered mail to the last address of record in the Department a notice setting forth the reasons for the determination.

1. Denial of a request submitted by a provider becomes final 30 calendar days after receipt of the notice unless the applicant within such 30-day period gives written notice to the Board of a desire for hearing. The hearing will be conducted in accordance with 184 NAC 1, Rules of Practice and Procedure of the Department.

106-013.02 NURSING HOME ADMINISTRATOR - Continuing Competency Requirements:

On or before December 31st of each even numbered year, each nursing home administrator holding an active license in the State of Nebraska must complete at least 50 hours of approved continuing education during the preceding 24-month period. A licensee may carry-over up to 25 hours earned beyond the 50 hours for the next renewal period. No more than the total number of approved hours offered in Nebraska will be required during this period. Hours are defined as:

1. Academic Credit: A maximum of 25 hours of continuing education credit per a biennial renewal period may be obtained through academic credit; continuing education obtained through academic credit is calculated as follows:
 - a. 1 semester hour of academic credit equals 5 continuing education credit hours; and
 - b. 1-quarter hour of academic credit equals 3 continuing education credit hours;
2. Home Study: A maximum of 25 hours of continuing education credit per a biennial renewal period may be obtained through home study programs.
3. Continuing Education Programs: 60 minutes of participation equals 1 continuing education hour/credit.

106-013.02A Acceptable Continuing Competency Topic Areas: The Board does not approve continuing competency programs/activities for renewal of a nursing home administrator license. In order for a continuing competency activity/program to be accepted for renewal or reinstatement of a license, the activity must include one or a combination of the following topic areas:

1. Courses, clinics, forums, lectures, college/university courses, workshops or educational seminars relating to health care administration as defined by the following:
 - a. Applicable standards of environmental health and safety;
 - b. Applicable health and safety regulations;
 - c. General administration;
 - d. Psychology of patient care;
 - e. Principles of patient care;
 - f. Personal and social care of residents;
 - g. Therapeutic and supportive care and services in long-term care;
 - h. Facility departmental organization and management; and
 - i. Community health/service organizations.
2. Programs approved by the following are considered acceptable for renewal or reinstatement of a license. Only the number of hours indicated as approved by these organizations will be acceptable for renewal.

- a. American Association of Homes and Services for the Aging (AAHSA);
- b. American College of Health Care Administrators (ACHCA);
- c. American Health Care Association (AHCA);
- d. American Medical Directors Association (AMDA);
- e. Nebraska Association of Homes and Services for the Aging (NAHSA);
- f. Nebraska Health Care Association (NHCA); or
- g. National Continuing Education Review Service (NCERS) through NAB.

106-013.02B Presenter Credit: If the licensee is a presenter, s/he must maintain documentation of his/her presentation of an approved continuing education program. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.

106-013.02C Continuing Education Workshop Criteria: To be considered acceptable for continuing competency, a continuing education workshop must meet the following criteria:

1. The program must be at least 60 minutes in duration;
2. The program's objectives must relate directly to the practice of Nursing Home Administration as defined in 172 NAC 106-002, item 17;
3. Presenters of programs must be qualified by education, experience or training;
4. Programs must be open to all Nursing Home Administrators licensed by Nebraska who meet the pre-requisites for the program; and
5. Program providers must have a process for verifying attendance.

106-013.02D Criteria for a Home Study Program: To be considered acceptable for continuing competency, a home study program must meet the following criteria:

1. Objectives: The home study program's objectives must relate directly to the enhancement of practice/skills of Nursing Home Administration. Examples of home study programs are: videotapes, audiotapes, textbook, Internet, or teleconference;
2. Author: Program author(s) of home study programs must meet the following qualifications:
 - a. Have experience in long term care, content and subject matter;
 - b. Have expertise in teaching and instructional methods suitable to subject presented; and
 - c. Have suitable academic qualifications, certification credentials, and/or experience for subject presented;

3. Hours: 15 pages of double spaced text equals 1 hour of continuing education. The examination and bibliography are not calculated in the total number of pages.
4. Post-Test: The home study program must include a post-test.

106-013.02E Continuing Education Certificate of Completion: Each provider of a continuing education program must furnish to each person completing the program a certificate of completion.

1. Each certificate must include the following:
 - a. Program name;
 - b. Name of the participant and his or her license/certificate number;
 - c. Provider's name;
 - d. Date the program began and ended; and
 - e. Number of hours received by the licensee/certificate holder, not to exceed the number of hours granted for the program.
2. Presentation of the certificate constitutes evidence that the person complied with all requirements of the program and completed the program.

106-013.02F Program Monitoring: The provider must employ a reliable system to monitor the physical presence of participants throughout the entire program. If a participant chooses not to participate in the entire program, the certificate of attendance must reflect the participant's actual hours of attendance.

106-014 RENEWAL: An individual who wants to renew his/her nursing home administrator or preceptor credential must request renewal as specified in 172 NAC 106-014.02. All nursing home administrator credentials issued by the Department will expire on December 31st of each even-numbered year and preceptor certifications will expire on December 31st of every 4 years from the date of issuance.

106-014.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder to the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

106-014.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) The applicant's telephone number including area code (optional);
 - (5) The applicant's e-mail address (optional); and
 - (6) The applicant's fax number (optional);
 - b. Continuing Competency: The individual:
 - (1) Must attest to meeting the continuing competency requirements as specified in 172 NAC 106-013; or
 - (2) May request a waiver of continuing competency requirements as specified in 172 NAC 106-014.02A and 106-014.02B; and
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete; and
 - (3) S/he is of good character.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - b. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - c. Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - d. Conviction Information: If the applicant has been convicted of a

felony or misdemeanor, the applicant must submit to the Department:

- (1) A list of any misdemeanor or felony convictions;
- (2) A copy of the court record, which includes charges and disposition;
- (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (6) Any other information as requested by the Board/Department; and

3. The renewal fee according to 172 NAC 2.

106-014.02A Waivers for Military Activity: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC106-002, item 33, is not required to pay the renewal fee or meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military activity by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing education requirements and renew the credential. The credential will remain active until the next renewal period.

106-014.02B Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

106-014.02C Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

106-014.02C1 The Department/Board will notify each selected credential

holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

106-014.02C2 Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department.

106-014.02C3 Acceptable documentation that the credential holder has met the continuing competency requirements include copies of:

1. Certificates of attendance;
2. Attendance rosters;
3. Transcripts or grade reports;
4. Letters from sponsors of continuing education verifying attendance; or
5. Other similar documentation.

106-004.02C4 The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

106-014.02C5 The Department/Board will notify the credential holder upon satisfactory completion of the audit.

106-014.02C6 The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

106-014.02C7 The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

106-014.03 Department Review: The Department will act within 150 days upon all completed applications for renewal.

106-014.03A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure.

106-014.04 Address Information: Each credential holder must notify the Department of any change to the address of record.

106-014.05 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

106-014.05A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

106-014.05B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

106-014.05C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice nursing home administration expires.

106-014.05D Practice after Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 106-018 or such other action as provided in the statutes and regulations governing the credential.

106-014.05E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of nursing home administration after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 106-017.

106-014.06 Inactive Status: When an individual wants to have his/her credential placed on inactive status upon expiration, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

106-014.06A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

106-014.06B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of nursing home administration, but may represent him/herself as having an inactive credential.

106-014.06C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC106-015.

106-015 DISCIPLINARY ACTIONS

105-015.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 106-015.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;

13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 106-015.02; or
24. Violation of the Automated Medication Systems Act.

106-015.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
 - d. By a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on

- stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
 8. Knowingly disclosing confidential information except as otherwise permitted by law;
 9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
 10. Failure to keep and maintain adequate records of treatment or service;
 11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
 12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency;
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
 13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
 14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care; and
 15. Nursing home administrator behavior (acts, knowledge, and practices) which fails to conform to the accepted standards of the nursing home administrator profession constitutes unprofessional conduct and includes but is not limited to:
 - a. Failure to utilize appropriate judgment in administering safe nursing home practices;
 - b. Failure to exercise competence in carrying out nursing home administration;
 - c. Failure to follow policies or procedures implemented in the practice situation to safeguard patient or resident care;
 - d. Failure to safeguard the patient's or resident's dignity and right to privacy;
 - e. Violating the confidentiality of information or knowledge concerning the patient or resident;
 - f. Mentally, verbally, or physically abusing patients or residents.
 - g. Failure to seek proper education and preparation for new nursing home administrator techniques or procedures;
 - h. Falsifying patient's or resident's records;
 - i. Misappropriation of medications, supplies or personal items of the patient or resident or agency;

- i. Violating state or federal laws relative to drugs or forging prescriptions or by making drugs available to self, friends, or family member;
- k. Falsifying records submitted to the Board of Nursing Home Administration, the State Department of Health and Human Services, or other State Agency;
- l. Committing any act which endangers patient or resident welfare or safety;
- m. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
- n. Leaving a nursing home administrator assignment or post without properly notifying appropriate substitute personnel;
- o. Failure to report through the proper channels the incompetent, unethical, or illegal practice of any person who is providing or who is purporting to provide health care;
- p. Altering a license by changing the expiration date, license number or any other information appearing on the license;
- q. Intentional falsification of material facts in a material document connected with the practice of nursing home administration.
- r. Violating any term of probation, condition, or limitation imposed on the licensee by the Board or Department;
- s. Sexual contact or engaging in any other activities of a sexual nature with a patient. Non-consensual sexual contact with a fellow employee.
- t. Failure to file a report required by Neb. Rev. Stat. § 38-1,124 of the Uniform Credentialing Act; and
- u. Having a license or certificate in a related health care discipline in the State of Nebraska or in another state denied, refused renewal, revoked, or suspended for any one or more of the preceding actions or conduct.

106-015.03 Temporary Suspension or Limitation

106-015.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 106-015.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

106-015.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary

limitation order by the Director will take effect when served upon the credential holder.

106-015.03C A temporary suspension or temporary limitation of a credential under 172 NAC 106-015.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

106-015.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

106-015.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

106-015.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 106-015.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

106-016 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number;
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer; and
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

106-016.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

106-016.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

106-016.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

106-016.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

106-016.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

106-016.06 Reinstatement following voluntary surrender is set out in 172 NAC 106-017.

106-017 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

106-017.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter: The applicant must submit to the Department:

1. A written application on a form provided by the Department or constructed by the applicant which must contain the following information about the applicant:

- a. Name;
 - b. Address;
 - c. The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Attestation that the continuing competency requirements for renewal have been met;
 - f. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active. If the applicant has been convicted of a felony or misdemeanor, s/he must provide copies of:
 - (a) The court record, which includes charges and disposition;
 - (b) Arrest records;
 - (c) A letter from the applicant explaining the nature of the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of any treatment obtained; and
 - (e) A letter from the probation officer addressing probationary conditions and current status if the applicant is currently on probation;
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential the applicant wishes to reinstate was active. If any disciplinary action was taken against the applicant's credential by another state, the applicant must submit a copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
2. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential; and
 3. The following fee(s):
 - a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

106-017.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Assess an administrative penalty pursuant to 172 NAC 106-018, in which case a separate notice of opportunity for hearing will be sent to the applicant;
2. Deny the application to reinstate the credential;
3. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
4. Reinstate the credential.

106-017.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

106-017.01C The Department will act within 150 days on all completed applications.

106-017.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

106-017.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 106-017.01.

106-017.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement based on the provisions in the order accepting the voluntary surrender.

The applicant must submit to the Board:

1. A written application on a form provided by the Department or constructed by the applicant, which must contain the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. The applicant's:
 - (a) Social Security Number (SSN); or

- (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. If the applicant's credential has expired during the time the credential was suspended, limited, revoked, or voluntarily surrendered, attestation of meeting the continuing competency requirements for renewal;
 - f. A statement of the reason the applicant believes his/her credential should be reinstated;
 - g. Written recommendations from at least two individuals each having personal knowledge of the activities of the applicant since the credential was suspended, limited, revoked, or voluntarily surrendered. Recommendations from household members or relatives are not acceptable;
 - h. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, revoked, or voluntarily surrendered. If the applicant has been convicted of a felony or misdemeanor, s/he must provide copies of:
 - (a) Court Record, which includes charges and disposition;
 - (b) Arrest records;
 - (c) A letter from the applicant explaining the nature of the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of any treatment obtained; and
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspension, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential the applicant wishes to reinstate was suspended, limited, revoked, or voluntarily surrendered. If any disciplinary action was taken against the applicant's credential by another state, the applicant must submit a copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
2. Attestation by the applicant:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or

- b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential; and
3. The renewal fee.

106-017.03A If an applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may take one or more of the following actions:

1. Assess an administrative penalty pursuant to 172 NAC 106-018, in which case a separate notice of opportunity for hearing will be sent to the applicant;
2. Deny the application to reinstate the credential;
3. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
4. Reinstate the credential.

106-017.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; or
3. Reinstate the credential.

106-017.03C The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application. The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

106-017.03D On the basis of the information obtained under 172 NAC 106-017.03C, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

106-017.03E An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

106-017.03F If the Board's decision is to deny the application for reinstatement, notification of the Board's decision will be mailed to the applicant by certified mail. The decision of the Board will become final 30 days after the decision is mailed to the applicant unless the applicant requests a hearing within that 30-day period.

1. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.
2. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
3. Following the hearing, if the Board's decision is denial of the application for reinstatement, the applicant will be notified by certified mail.
4. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

106-017.03G If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

106-017.03H The Director will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and

accompanying documents. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary or capricious; and
3. Enter an order setting forth the decision regarding reinstatement of the applicant's credential. The order will be sent to the applicant by certified mail.

106-017.03I The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

106-018 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

106-018.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

106-018.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty.

2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

106-018.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

106-019 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

THESE AMENDED RULES AND REGULATIONS Replace 172 NAC 106 Nursing Home Administrators, effective October 3, 2004. Additional amendments are effective **8/7/2010**.

Approved by the Attorney General: February 17, 2009; **August 19, 2010**
Approved by the Governor: March 17, 2009
Filed with the Secretary of State: March 17, 2009
EFFECTIVE DATE: March 22, 2009; August 7, 2010

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 107 CLINICAL NURSE SPECIALISTS

107-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Clinical Nurse Specialists in the State of Nebraska. Statutory authority for these regulations is in the Advanced Practice Registered Nurse Licensure Act, the Clinical Nurse Specialist Practice Act, the Nurse Licensure Compact, and the Uniform Licensing Law.

107-002 DEFINITIONS

Act means the Clinical Nurse Specialist Practice Act.

Advanced Practice Registered Nurse (APRN) means a registered nurse who holds a current APRN license as a Certified Nurse Midwife, Certified Registered Nurse Anesthetist, Clinical Nurse Specialist, or Nurse Practitioner.

Approved clinical nurse specialist program means a program which:

1. Offers a master's degree or a doctoral degree in a nursing clinical specialty area; or
2. Offers a graduate-level clinical nurse specialist education program to individuals who have a master's degree in nursing.

Approved certifying body means a national certification organization which: (1) certifies qualified licensed nurses for advanced practice; (2) is approved by the Board; (3) has eligibility requirements related to education and practice; and (4) offers an examination in an area of practice which meets psychometric guidelines and tests approved by the Board.

Approved certifying examination means an examination for clinical nurse specialists offered by an approved certifying body.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Advanced Practice Registered Nurses.

Certification means the status granted in a nursing clinical specialty by an approved certifying body through a process which requires evidence of completion of a formal program of study in an clinical specialty and successful completion of an examination.

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Clinical Nurse Specialist means a registered nurse who meets the requirements of Neb. Rev. Stat. § 71-17,119 and who holds a license issued under the Clinical Nurse Specialist Practice Act. The practice of a clinical nurse specialist includes health promotion, health supervision, illness prevention, and disease management, including assessing patients, synthesizing and analyzing data, and applying advanced nursing practice. A clinical nurse specialist conducts and applies research, advocates, serves as an agent of change, engages in systems management, and assesses and intervenes in complex health care problems within the selected clinical specialty.

Completed application means all of the information requested in 172 NAC 107-003 has been provided and attested and the appropriate fees and all required documentation have been submitted.

Continuing education means planned, organized, systematic, and evaluative educational experiences designed to maintain or enhance the knowledge, skills, and/or attitudes of Clinical Nurse Specialists for nursing practice in health promotion, health supervision, illness prevention, and disease management, including assessing patients, synthesizing and analyzing data, and applying advanced nursing practice.

Department means the Division of Public Health of the Department of Health and Human Services.

Director means the Director of Public Health of the Division of Public Health or the Chief Medical Officer if one has been appointed.

Expired license means a license whose expiration date has passed.

Inactive license means a license which the license holder has voluntarily placed on inactive status. An individual with an inactive license has terminated the right to practice or represent himself or herself as having an active license.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 107.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. The compact applies only to Registered Nurse and Licensed Practical Nurse licensure. It does not apply to advanced practice nurse licensure. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

Official record means a document that carries the seal, signature or other notation indicating that the document was issued by the primary source.

Official transcript means a transcript issued by and under the original seal of the educational institution.

Recertification means the continued periodic granting of certification in a clinical specialty area by an approved certifying body through a process that requires the applicant to meet criteria related to education and practice.

Reentry program means an organized approach to learning that results in current knowledge related to one or more specialty area(s) of advanced nursing practice.

Reinstatement means the return to active status and the restoration of the authority to practice to a license holder who previously held a license in this state.

107-003 REQUIREMENTS FOR ISSUANCE OF A LICENSE: A person may practice as a Clinical Nurse Specialist in Nebraska only if s/he holds a Nebraska license. This requirement does not prohibit persons identified in Neb. Rev. Stat. § 71-17,128 from practicing as limited by that section. The criteria for issuance of a license and the documents required in applying are set forth below.

107-003.01 Requirements for Licensure: The applicant must:

1. Be licensed as a registered nurse in the State of Nebraska or have the authority to practice in this state as a registered nurse pursuant to the provisions of the Nurse Licensure Compact;
2. Have successfully completed an approved program leading to a master's degree or a doctoral degree in a nursing clinical specialty area; or hold a master's degree in nursing and have completed a graduate-level clinical nurse specialist education program;
3. Have passed an approved certifying examination. Approved certifying examinations include:
 - a. American Nurses Credentialing Center (ANCC) – CNS examinations in Adult Health, Adult Psychiatric and Mental Health, Advanced Diabetes Management, Child/Adolescent Psychiatric and Mental Health, Community Health, Gerontological Nursing, or Pediatric Nursing;
 - b. American Association of Critical-Care Nurses (AACN) – CNS examinations in Adult Acute and Critical Care, Neonatal Acute and Critical Care, or Pediatric Acute and Critical Care; and
 - c. Oncology Nursing Certification Corporation – Advanced Oncology CNS examination;
4. Meet the requirements for continuing competency by submitting documentation of one of the following:
 - a. Current national certification/recertification for those licensed after September 1, 2007, and:

- (1) Completion of an approved CNS program in the previous five years; or
- (2) Practice as a CNS in a specific advanced practice role in the previous five years.
 - (a) Applicants who have previously been authorized in another state must have 2080 hours of practice within the five years immediately preceding application; and
- b. Applicants who do not have current national certification/recertification and who have not completed an approved CNS program in the previous five years or practiced as a CNS in a specific advanced practice role in the previous five years must:
 - (1) Have successfully completed a reentry program within the previous two years that has been approved by the Board; or
 - (2) Pass an approved credentialing examination within the two years immediately preceding application.
 - (a) Applicants must obtain a temporary permit for the practice portion of the reentry program; and
5. Pay the appropriate fee.
6. If certification is not available, the applicant must meet an alternative method of competency assessment by any means approved by the Board.

107-003.02 Applicants must submit to the Department:

1. A written application which:
 - a. Is verified by the applicant's oath;
 - b. Contains the following information about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Day and evening telephone numbers;
 - (4) Gender;
 - (5) Date of birth;
 - (6) Place of birth;
 - (7) Social Security number;
 - (8) Name and location of advanced practice nursing program;
 - (9) Name and location of master's program, if applicable; and
 - (10) Nebraska RN license number or RN license number from a compact state of primary residence;

- c. Contains a statement describing all of the following (information previously submitted on a mandatory report or other license application does not need to be submitted again):
 - (1) Pending charges which could result in a felony or misdemeanor conviction;
 - (2) Felony or misdemeanor convictions;
 - (3) Denials, discipline or pending discipline of a license in any health care profession; and
 - (4) Denials of admissions to take a licensing examination in any health care profession;
2. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license.
 - (1) An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 98-004;
3. An official transcript from an approved program documenting completion of program requirements including a master's degree or doctoral degree;
4. Documentation of having passed an approved certifying examination or documentation of an alternative method of competency assessment. A letter or other official record from an approved certifying body will be acceptable. Approved certifying examinations include:
 - a. American Nurses Credentialing Center (ANCC) – CNS examinations in Adult Health, Adult Psychiatric and Mental Health, Advanced Diabetes Management, Child/Adolescent Psychiatric and Mental Health, Community Health, Gerontological Nursing, or Pediatric Nursing;
 - b. American Association of Critical-Care Nurses (AACN) – CNS examinations in Adult Acute and Critical Care, Neonatal Acute and Critical Care, or Pediatric Acute and Critical Care; and
 - c. Oncology Nursing Certification Corporation – Advanced Oncology CNS examination; and
5. The required license fee.
 - a. Proration of Initial license Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25 and if applicable the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

107-003.03 The following applicants must provide additional information to the Department:

1. Persons with pending charges which could result in a felony or misdemeanor conviction;
2. Persons who have been convicted of a felony or misdemeanor; and
3. Persons whose license to practice in a health care profession has been denied or disciplined or is pending discipline.

107-003.04 Applicants listed in 172 NAC 107-003.03 must submit the following to the Department:

1. A full explanation of the pending charges, conviction, denial, disciplinary action, or pending disciplinary action; and
2. Official records as requested by the Department related to the conviction, denial or discipline; for example, probation reports, court records, licensure disciplinary reports, or chemical dependency evaluation.

107-003.05 The Department will act within 150 days upon all completed applications for licensure.

107-003.06 If the Department denies issuance of a license, the applicant will be given an opportunity for an administrative hearing before the Department which will be conducted in accordance with the Administrative Procedure Act and the Department's Rules of Practice and Procedure.

107-003.07 A person licensed as a clinical nurse specialist has the right to use the title Clinical Nurse Specialist and the abbreviation CNS.

107-004 CONTINUING COMPETENCY: The criteria for demonstration of continuing competency and the documents required are as follows:

107-004.01 By a license holder seeking to renew or reinstate a Clinical Nurse Specialist license:

1. National certification/recertification or documentation of an alternative method of competency assessment, if licensed after September 1, 2007;
2. Documentation of a minimum of 2080 hours of practice as a Clinical Nurse Specialist within the previous five years immediately preceding renewal.
 - a. Hours spent by faculty in a graduate-level clinical nurse specialist program in the supervision of students in the clinical area may apply toward the 2080 hours.
 - b. Applicants who have been licensed in Nebraska or authorized by any other jurisdiction for less than five years will not be required to meet the practice requirement for license renewal; and

3. Documentation of 40 contact hours of continuing education in the clinical specialty area within the previous two years.
 - a. Applicants who have been licensed in Nebraska or authorized by any other jurisdiction for less than two years will not be required to meet the continuing education for license renewal.
4. Applicants seeking reinstatement or renewal who cannot meet these requirements must complete a reentry program approved by the Board. The reentry program must include a minimum of 2080 hours of practice within the previous five years, and 40 contact hours of continuing education within the previous two years.
 - a. Applicants must obtain a temporary permit for the practice portion of the reentry program. The reentry program must be completed within two years of issuance of the temporary license.

107-004.02 Waiver of Continuing Competency Requirements: The Department, with the concurrence of the Board, may waive continuing education/in-service requirements for any two-year licensing period when a license holder submits documentation that circumstances justify such a waiver. Waivers may be requested and granted for the following reasons:

1. If in the military and assigned to a location where in-service education/continuing education is not available;
2. If living outside of the USA and in-service education/continuing education is not available; or
3. If serving as a missionary in a foreign country.

107-004.03 By an applicant seeking initial licensure in this state:

1. Current national certification/recertification or alternative method of competency assessment and, within the five years immediately preceding application:
 - a. Completion of an approved Clinical Nurse Specialist program; or
 - b. 2080 hours of practice as a Clinical Nurse Specialist in another state in a specific advanced practice role.
2. Applicants who do not meet these requirements must, within the two years immediately preceding application, demonstrate continuing competency by:
 - a. Successfully completing a reentry program that has been approved by the Board; or
 - b. Passing an approved certification examination within the two years immediately preceding application and successfully completing supervised practice as specified by the Board.

- (1) Applicants must obtain a temporary permit for the practice portion of the reentry program.

107-005 RENEWAL OF A LICENSE

107-005.01 Expiration: All Clinical Nurse Specialist licenses issued by the Department pursuant to the Act and these regulations expire on October 31 of each even-numbered year unless renewed as provided below.

107-005.02 Requirements: Before his/her license will be renewed a Clinical Nurse Specialist must:

1. Have a current registered nurse license in Nebraska or authority to practice as an RN in this state pursuant to the Nurse Licensure Compact;
2. Meet the requirements for continuing competency in 172 NAC 107-004; and
3. Pay the renewal fee.

A licensee may be subject to an audit to verify meeting the continuing competency requirements and will be required to submit required documentation if selected for audit.

107-005.03 Procedures

107-005.03A First Notice: On or before August 1 of even-numbered years, the Department will send a renewal notice and a notice of requirement for documentation of continuing competency by means of regular mail to each license holder at the license holder's last place of residence as noted in the records of the Department. It is the responsibility of the license holder prior to the renewal period to notify the Department of any name and/or address changes.

1. The renewal notice will specify:
 - a. The name of the license holder;
 - b. The license holder's last known address of record;
 - c. The license number;
 - d. The expiration date of the license;
 - e. The renewal fee as prescribed in 172 NAC 98-003;
 - f. The attestation of continuing competency;
 - g. The option to place the license on inactive status; and
 - h. The attestation of primary state of residence.
2. The license holder must apply for renewal by submitting to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. The license holder's Social Security number;

- d. Attestation of meeting the continuing competency requirements within the required time period or application for waiver of continuing competency; and
 - e. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).
3. If the license holder wishes to place her/his license on inactive status s/he must request that her/his license be placed on inactive status by submitting to the Department the renewal notice with a check in the box marked inactive.
 4. The Department will notify the license holder in writing of the acceptance or denial of the request to allow the license to be placed on inactive status.
 5. A license holder whose license is on inactive status must not practice in this state.

107-005.03B Second Notice: The Department will send to each license holder who fails to renew her/his license or place the license on inactive status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 107-005.03A that specifies:

1. That the license holder failed to pay the renewal fee;
2. That the license has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That the license holder is subject to an administrative penalty pursuant to 172 NAC 98-004 if s/he practices after the expiration date;
5. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency within that time, the license will be not be placed on inactive status; and
6. That upon failure to receive \$25 in addition to the renewal fee, and documentation of continuing competency, the license will be inactive.

107-005.03C The license holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's Social Security number;
4. Attestation by the license holder:
 - a. That s/he has not practiced in Nebraska since the expiration of her/his license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;

5. Attestation of meeting the continuing competency requirements within the required time period or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

107-005.03D If the license holder wishes to place her/his license on inactive status s/he must request that her/his license be placed on inactive status by submitting to the Department the renewal notice with a check in the box marked inactive.

107-005.03E The Department will notify the license holder in writing of the acceptance or denial of the request to allow the license to be placed on inactive status.

107-006 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

107-006.01 Eligibility

107-006.01A An individual whose credential has been previously:

1. Placed on inactive status;
2. Suspended or limited for disciplinary reasons; or
3. Voluntarily surrendered or voluntarily limited for an indefinite period of time

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

107-006.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

107-006.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 98-004; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

107-006.02 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have her/his credential moved

from inactive to active status upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. Continuing competency requirements; and
 - b. Paying the renewal fee and the late fee; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

107-006.03 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number;
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;

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- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant; and
- f. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee and the late fee; and
 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

107-006.03A If an applicant has practiced while her/his credential was inactive the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 98-004;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

107-006.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

107-006.03C In either event pursuant to 172 NAC 107-006.03A or 107-006.03B, a notice and the opportunity for hearing will be given to the applicant.

107-006.03D The Department will act within 150 days on all completed applications.

107-006.04 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
2. Pay the reinstatement fee of \$75; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

107-006.05 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner and at least two citizens, each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:

- (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
- (6) Any continuing competency activities;
2. The reinstatement fee of \$75; and
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
- (1) If a petitioner has practiced after her/his credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 98-004 in which case a separate notice and opportunity for hearing will be sent to the petitioner.

- (2) If a petitioner has practiced after her/his credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 107-006.05G.

107-006.05A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department to investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§ 71-147 and 71-148;
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

107-006.05B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

107-006.05C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

107-006.05D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

107-006.05E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

107-006.05E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

107-006.05E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

107-006.05F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

107-006.05G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

107-006.05G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation. The application must include:
 - a. Name of the petitioner; and
 - b. Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority,

made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to the state Administrative Procedure Act.

107-006.05G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation. The application must include:
 - a. Name of the petitioner; and
 - b. Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that

the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to the state Administrative Procedure Act.

107-006.05G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to the state Administrative Procedure Act.

107-006.06 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time: Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. § 71-161.11 may be restored at the discretion of the Department.

107-006.06A An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;

- [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active.
- (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant; and
- f. Any continuing competency activities; and
- g. Attestation:
- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

107-006.06B If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

- 1. Assess an administrative penalty pursuant to 172 NAC 98-004;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

107-006.06C If an applicant has committed any other violation of the statutes and regulations governing the credential while her/his credential was voluntarily surrendered or limited, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request for restoration of the credential; or
- 3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

107-006.06D In either event pursuant to 172 NAC 107-006.06B or 107-006.06C, a notice and the opportunity for hearing will be given to the applicant.

107-006.06E The Department will act within 150 days on all completed applications.

107-006.07 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

107-006.07A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

107-006.07B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 98-004.

107-006.08 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

107-007 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

107-007.01 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against a license for any of the acts or offenses set forth in Neb. Rev. Stat. §§ 71-147 and 71-148 of the Uniform Licensing Law.

107-007.02 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against a license for unprofessional conduct, which term includes but is not limited to:

1. Misappropriating medications, supplies, or personal items of a patient or agency;
2. Violating the confidentiality of information or knowledge concerning the patient;
3. Committing any act which endangers patient safety or welfare;
4. Failure to seek consultation and collaboration or failure to refer a patient when warranted by patient condition;

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5. Practicing as a clinical nurse specialist without a license issued under the Clinical Nurse Specialist Practice Act except as provided in Neb. Rev. Stat. 71-17,128;
6. Failure of a license holder, who is subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents;
7. Holding himself or herself out as a clinical nurse specialist or using the abbreviation CNS or any other designation tending to imply that he or she is a clinical nurse specialist holding a license issued under the act if he or she does not hold such a license;
8. Falsification or misrepresentation of material facts in attempting to procure employment as an Clinical Nurse Specialist;
9. Intentional falsification of material facts in a material document connected with the practice of advanced practice nursing;
10. Kissing, fondling, touching or engaging in any other activities of a sexual nature with a patient; and
11. Violating any term of probation, condition, or limitation imposed on the license holder by the Department.

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 108 APPROVAL OF TRAINING PROGRAMS AND QUALIFICATIONS FOR
NURSING ASSISTANTS IN NURSING HOMES

108-001 SCOPE AND AUTHORITY: These regulations govern the qualifications and training requirements for nursing assistants employed in nursing homes. Statutory authority for these regulations is Neb. Rev. Stat. §§ 71-6038, 71-6039, and 71-6040 to 71-6042. These regulations are also consistent with federal requirements developed by the United States Department of Health and Human Services in 42 CFR § 483, Subpart D, as it existed on the effective date of these regulations.

108-002 DEFINITIONS

Administrator means the operating officer for the health care facility and may be titled as administrator, manager, superintendent, or director, or may have a similar designation. The administrator of a licensed intermediate care facility, nursing facility, skilled nursing facility, or intermediate care facility for the mentally retarded must be licensed by the State of Nebraska.

Curriculum means a detailed course outline, description, or syllabus submitted to the Department as part of the approval process by an association, hospital, nursing home, educational institution, or health care facility sponsoring a nursing assistant training course.

Department means the Department of Health and Human Services.

Employee means an individual under hire to a nursing home to perform any duty required to be performed regularly on the premises, whether on a full-time or part-time basis.

Intermediate care facility means a facility where shelter, food, and nursing care or related services are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled and do not require hospital or skilled nursing care.

Intermediate care facility for the mentally retarded or ICF/MR means a facility where shelter, food, and training or habilitation services, advice, counseling, diagnosis, treatment, nursing care, or related services are provided for a period of more than 24 consecutive hours to four or more persons residing at such facility who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities.

Long-term care hospital means a hospital or any distinct part of a hospital that provides the care and services of an intermediate care facility, a nursing facility, or a skilled nursing facility.

Nursing assistant means any person, other than a paid dining assistant or a licensed registered or practical nurse, employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents. Federal regulations in 42 CFR § 483, Subpart D, refer to these nursing home employees as “nurse aides”.

Nursing facility means a facility where medical care, nursing care, rehabilitation, or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled.

Nursing home means any facility or distinct part of any facility that provides care as defined in Neb. Rev. Stat. § 71-420 (intermediate care facility), § 71-421 (ICF/MR), § 71-422 (long-term care hospital), § 71-424 (nursing facility), and § 71-429 (skilled nursing facility).

Registered nurse means an individual who has a current active Nebraska license, issued by the Department upon the recommendation of the State Board of Nursing, to practice professional nursing and to use the title "Registered Nurse" and the abbreviation "R.N." or has the authority to practice in this state as a registered nurse under the provisions of the Nurse Licensure Compact.

Registry means the central data bank established by 471 NAC 12-002.04 of individuals who have met the training and competency evaluation requirements established in 172 NAC 108-003.

Resident means any person domiciled, residing, or receiving care and treatment, for a period in excess of 24 hours, in a nursing home.

Skilled nursing facility means a facility where medical care, skilled nursing care, rehabilitation, or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled.

108-003 NURSING ASSISTANT TRAINING PROGRAMS

108-003.01 Courses of training for all nursing homes except ICF/MR's must be given by a single sponsor or organization and include, at a minimum, 75 clock hours of instruction including at least 16 hours of supervised practical training. In addition, the course must include at least one hour of instruction on the responsibility of each nursing assistant to report suspected abuse or neglect pursuant to Neb. Rev. Stat. §§ 28-372 and 28-711. The curriculum for a nursing assistant training course must include, at a minimum, the following:

1. At least 16 hours of training in the following areas prior to any direct contact with a resident:
 - a. Communication and interpersonal skills;
 - b. Infection control;
 - c. Safety/emergency procedures, including emergency measures for choking;
 - d. Promoting residents' independence; and
 - e. Respecting residents' rights.
2. Basic nursing skills:
 - a. Taking and recording vital signs;

- b. Measuring and recording height and weight;
 - c. Caring for the residents' environment;
 - d. Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor; and
 - e. Caring for residents when death is imminent.
3. Personal care skills, including, but not limited to:
- a. Bathing;
 - b. Grooming, including mouth care;
 - c. Dressing;
 - d. Toileting;
 - e. Assisting with eating and hydration;
 - f. Proper feeding techniques;
 - g. Skin care; and
 - h. Transfers, positioning, and turning.
4. Mental health and social service needs:
- a. Modifying nursing assistant's behavior in response to residents' behavior;
 - b. Awareness of developmental tasks associated with the aging process;
 - c. How to respond to resident behavior;
 - d. Allowing the resident to make personal choices, providing and reinforcing other behavior consistent with the resident's dignity; and
 - e. Using the resident's family as a source of emotional support.
5. Care of cognitively impaired residents:
- a. Techniques for addressing the unique needs and behaviors of individual with dementia (Alzheimer's and others);
 - b. Communicating with cognitively impaired residents;
 - c. Understanding the behavior of cognitively impaired residents;
 - d. Appropriate responses to the behavior of cognitively impaired residents; and
 - e. Methods of reducing the effects of cognitive impairments.
6. Basic restorative services:
- a. Training the resident in self-care according to the resident's abilities;
 - b. Use of assistive devices in transferring, ambulation, eating and dressing;
 - c. Maintenance of range of motion;
 - d. Proper turning and positioning in bed and chair;
 - e. Bowel and bladder training; and
 - f. Care and use of prosthetic and orthotic devices.
7. Resident rights:
- a. Providing privacy and maintenance of confidentiality;
 - b. Promoting the resident's right to make personal choices to accommodate his/her needs;
 - c. Giving assistance in resolving grievances and disputes;
 - d. Providing needed assistance in getting to and participating in resident and family groups and other activities;
 - e. Maintaining care and security of resident personal possessions;

- f. Promoting the resident's right to be free from abuse, mistreatment, and neglect and the need to report any instances of such treatment to appropriate facility staff; and
- g. Avoiding the need for restraints in accordance with current professional standards.

108-003.02 Courses of training for nursing assistants employed by ICF/MR's must be given by a single sponsor or organization and include, at a minimum, 15 hours of classroom instruction in basic personal care and five hours of classroom instruction in basic therapeutic and emergency procedures. In addition, the course must include at least one hour of instruction on the responsibility of each nursing assistant to report suspected abuse or neglect pursuant to Neb. Rev. Stat. §§ 28-372 and 28-711. The curriculum for the course must include, at a minimum, the following components of classroom instruction including appropriate practical training:

108-003.02A At least 15 hours of basic personal care training in the following areas:

- 1. Personal care:
 - a. Bathing;
 - b. Oral hygiene;
 - c. Backrubs;
 - d. Nail care;
 - e. Shaving;
 - f. Hair care;
 - g. Dressing; and
 - h. Bed-making (both occupied and unoccupied).
- 2. Active range of motion:
 - a. Ambulation;
 - b. Positioning;
 - c. Transfer techniques; and
 - d. Use of physical restraints.
- 3. Foods and fluids:
 - a. Basic nutrition;
 - b. Diet descriptions;
 - c. Preparation of residents for meals;
 - d. Feeding techniques;
 - e. Reporting intake and output; and
 - f. Weighing techniques.
- 4. Elimination:
 - a. Appropriate use of urinal and bedpan;
 - b. Bowel and bladder retraining;
 - c. Incontinent care; and
 - d. Enemas.

5. Safety and accident prevention:
 - a. Lighting;
 - b. Siderails;
 - c. Call lights;
 - d. Wheelchairs; and
 - e. Smoking.
6. Infection prevention techniques:
 - a. Handwashing;
 - b. Care of linen and equipment; and
 - c. Introduction to isolation techniques.
7. Aging process:
 - a. Basic principles;
 - b. Psychosocial needs; and
 - c. Communication skills.

108-003.02B At least five hours of therapeutic and emergency procedures training in at least the following areas:

1. Fire and disaster safety and procedures;
2. Basic emergency care:
 - a. Recognition of signs and symptoms of emergencies including bleeding, burns, convulsions, fainting, falls, and choking; and
 - b. Procedures for reporting; and
3. Measuring vital signs:
 - a. Temperature;
 - b. Pulse;
 - c. Respirations; and
 - d. Blood pressure.

108-003.02C At least one hour of training in procedures for reporting suspected abuse or neglect, including:

1. The requirements of Neb. Rev. Stat. §§ 28-372 and 28-711; and
2. Resident rights as set forth in 175 NAC 12 and 175 NAC 17.

108-003.03 Individuals completing a nursing assistant training course must demonstrate at least the minimum acceptable proficiency in tasks or duties connected with each unit of the components set forth in 172 NAC 108-003. This minimum acceptable proficiency must be determined by the registered nurse administering the course and the instructor for the course.

108-003.04 Individuals completing a 75-hour nursing assistant training course must successfully complete an approved competency evaluation program consisting of a written or oral examination and a demonstration of skills. The competency evaluation program will be administered by the Department or a Department-approved entity that is not a nursing home that participates in Medicare or Medicaid.

108-003.05 Courses may exceed the minimum hour or training requirements set forth in these regulations.

108-003.06 Courses must be administered by registered nurses who hold a current license to practice as a registered nurse in this state or have the authority to practice in this state as a registered nurse under the provisions of the Nurse Licensure Compact.

108-003.07 The registered nurse administering the nursing assistant course must document an individual's successful completion of the course in a certificate or letter, the original of which must be given to the individual, containing the following information:

1. The individual's name;
2. The individual's date of birth;
3. The date of successful completion of the course;
4. The course sponsor; and
5. The course instructor.

108-003.08 The information required by 108-003.07 must also be submitted to the Department in form or letter signed by the administrator, and must also include the individual's Social Security Number.

108-004 APPROVAL OF TRAINING PROGRAMS

108-004.01 Applications for Nursing Assistant Training Course: Any association, educational institution, or health care facility, including a skilled or intermediate care facility or ICF/MR may apply to the Department for approval to conduct a training course for nursing assistants.

108-004.01A Applications for approval of a nursing assistant training course must be made on a form provided by the Department, together with the curriculum for the course as defined in 108-003. The application must include the following information:

1. The title of the course;
2. The sponsor's name;
3. The names and authors of all textbooks to be used, if any, including the publisher and edition, or if no textbook is to be used, a list of written materials to be used, including the source of such materials;
4. The specific objectives for the course;
5. The units to be covered in the course, as determined by the components required by 108-003.01, items 1-7, and 108-003.02A-C;
6. The hours to be spent on each unit within the components required by 108-003.01, items 1-7, and 108-003.02A-C;

7. The method(s) of instruction for each unit listed in 108-004.01, item 5 (for example, lecture, demonstration, simulation, slide presentation, film strip, etc.);
8. A description of the practical training to be provided for each unit listed in 108-004.01A, item 5;
9. The reading assignment in the text or in other materials, if any, for each unit;
10. The evaluation method for each unit (for example, written examination, student presentation or demonstration, competency check-off, etc.);
11. An explanation of when students will be evaluated (for example, after each unit, comprehensively at the end of the course);
12. An explanation of the grading system to be used for written examinations and proficiency evaluations; and
13. A list of tasks and duties connected with each unit listed in 108-003.01, items 1-7, or 108-003.02A-C on which students will be evaluated for competency, and guidelines for examinations to be used, which must include, at a minimum:
 - a. Procedures to be followed in administering examinations;
 - b. Procedures to be followed to ensure security of examinations, both during administration and otherwise, including but not limited to the number of times a particular examination will be used;
 - c. Procedures to be followed to validate the examinations as testing competency in the unit being tested; and
 - d. Procedures to be followed in reporting the grades to the sponsor and the Department.

108-004.01B The application and curriculum must be submitted at least 30 days prior to the date on which the course is to be given.

108-004.01C The application must be submitted by the administrator or operating officer for the entity conducting the course.

108-004.01D Only applications which are complete will be considered. In order to be considered complete, an application must include:

1. All of the information requested on the application;
2. A complete curriculum as defined in 108-002.02; and
3. The signature of the administrator or operating officer of the entity making application.

An applicant may submit such additional documents or information as the applicant may consider relevant to the application and compliance with the provisions of these regulations. In the event that an application is determined to be incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of the additional information.

108-004.02 Continuing Approval: Once an application for approval for a nursing assistant course has been granted by the Department, reapproval is not required for each occasion on which the course is administered so long as the course is not changed, or so long as the course requirements are not changed by law. If the course, or any portion of a course is changed, reapplication must be made in accordance with 108-004.01A. In cases where only a portion of a course is changed, the applicant may submit documentation and information only as to the changes made, but must clearly indicate those portions that are unchanged by so stating on the application.

108-004.03 Applications to Conduct Approved Courses Developed by Others: Associations, educational institutions, and health care facilities may, with the consent of the developer(s), conduct nursing assistant training courses developed by others which have received approval from the Department. Such facilities must apply for approval in accordance with 108-004.01A, but need not submit curriculum materials required by 108-003.01 or 108-003.02 except to the extent that the course will be varied in any manner from the approved course. Applicants must indicate on the application the title of the approved course to be used, name of the entity whose approved course will be used, and the date on which such course was approved.

108-004.04 Any changes in approved courses must be submitted to the Department for prior approval.

108-004.05 All nursing assistant training courses are subject to on-site periodic review by the Department. Sponsors of approved courses must provide written notice to the Department of the date(s) and location that a basic course will be held at least five working days before each occasion on which an approved course is scheduled to begin.

108-004.06 The approved course sponsor must maintain attendance records for such courses for a minimum of two years from the date of completion of each course.

108-004.07 Attendance records are subject to review by the Department upon request.

108-004.08 Denial, Suspension, or Revocation of Approval: The Department will deny, suspend, or revoke approval of a nursing assistant training course for failure to meet the requirements of Neb. Rev. Stat. §§ 71-6038 to 71-6042 as applicable, or the provisions of these regulations. If the Department determines to deny, suspend, or revoke approval of a nursing assistant training course, the Department will send the applicant a notice identifying the reasons for the determination. The notice will be sent by either registered or certified mail. The denial, suspension, or revocation will become final 30 days after the mailing of the notice unless the applicant, within that 30-day period, gives written notice of a request for a hearing. Hearings will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1.

108-005 NURSING ASSISTANT ELIGIBILITY AND REQUIREMENTS

108-005.01 In order for an individual to be eligible for employment as a nursing assistant in a nursing home, the individual:

1. Must be at least 16 years of age;
2. Cannot have been convicted of a crime involving moral turpitude rationally related to his or her practice;
3. Must be able to speak and understand the English language or a language understood by a substantial portion of the facility's residents; and
4. Must successfully complete, within 120 days of employment, a nursing assistant training course approved by the Department.

108-005.02 A registered nurse or licensed practical nurse whose license has been revoked, suspended, or voluntarily suspended in lieu of discipline may not act as a nursing assistant in a nursing home.

108-005.03 If a person registered as a nursing assistant becomes licensed as a registered nurse or licensed practical nurse, his or her registration as a nursing assistant becomes null and void as of the date of licensure.

108-006 FINDINGS OF CONVICTION

108-006.01 The Department will document convictions of crimes involving moral turpitude rationally related to the practice of a nursing assistant by placing a finding of conviction on the Registry. A finding of conviction will make the nursing assistant ineligible for employment in a nursing home.

108-006.02 A person listed on the Registry for whom a finding of conviction has been placed on the Registry may petition the Department to have the finding removed at any time after one year has elapsed since the date the finding was placed on the Registry.

108-006.03 If the Department proposes to place a finding in accordance with 108-006.01 or to deny a petition made in accordance with 108-006.02, the Department will send the nursing assistant or petitioner written notice identifying the reasons for the proposed finding. The Department will place the finding on the Registry 30 days after receipt of the notice unless the petitioner, within that 30-day period, gives written notice of a request for a hearing. Hearings will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1.

108-007 DISCIPLINARY ACTION: Pursuant to Neb. Rev. Stat. §§ 71-6042, a nursing home is subject to disciplinary action against its license for violations of Neb. Rev. Stat. §§ 71-6038 to 71-6042 or these regulations.

Effective Date
July 31, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 114

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 114 LICENSURE OF OCCUPATIONAL THERAPY

114-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of occupational therapists and occupational therapy assistants under Neb. Rev. Stat. §§ 38-2501 and 38-2531, and the Uniform Credentialing Act (UCA).

114-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 38-2501 to 38-2531, known as the Occupational Therapy Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Active license means the license of a person who is acting, practicing, functioning and working in compliance with the requirements of a license.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved supervised field work experience means a period of supervised field work experience at an educational institution approved by the Department and where the occupational therapist's or occupational therapy assistant's academic work was completed or which was part of a training program approved by the educational institution. A minimum of six months of supervised field work experience will be required for an occupational therapist and a minimum of two months of supervised field work experience is required for an occupational therapy assistant.

Association means a recognized national or state association for occupational therapy.

Attest or Attestation means that the individual declares that all statements on the application/petition are true and complete.

Audit means the selection of licensees for verification of satisfactory completion of the continuing education requirements of the act during the biennium.

Basic Educational Program/Educational Program means:

1. A program for the education of occupational therapists which is recognized by the Department and accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association or predecessor organizations.
2. A program for the education of occupational therapy assistants which is recognized by the Department and accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association or predecessor organizations.

Board means the Board of Occupational Therapy Practice.

Certified occupational therapy assistant means a person who is certified pursuant to guidelines established by the National Board for Certification in Occupational Therapy (NBCOT).

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consultation or in association with means providing professional advice.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing education means planned, organized learning activities designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

Continuing education activity means the various methods in which a licensee can obtain the necessary continuing education for license renewal.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Deep thermal agent modalities means therapeutic ultrasound and phonophoresis. Deep thermal agent modalities does not include the use of diathermy or lasers.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Electrotherapeutic agent modalities means neuromuscular electrical stimulation, transcutaneous electrical nerve stimulation, and iontophoresis. Electrotherapeutic agent modalities does not include the use of ultraviolet light.

Hour as it relates to continuing education means at least 60 minutes of participation in an organized learning experience otherwise known as a "contact hour."

1. One academic semester hour is equal to 15 contact hours. An approved three credit hour course provides 45 contact hours of continuing education credit.
2. One academic quarter hour is equal to ten contact hours. An approved three credit hour course would provide 30 contact hours of continuing education credit.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent himself/herself as having an active credential.

Laser means a mechanism for emitting electromagnetic radiation using heat via the process of stimulated emission. This does not include a method where light is applied to tissue in order to influence cell or tissue functions with such low light that heating is negligible.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensure examination means the National Board for Certification in Occupational Therapy (NBCOT) Examination administered by the Professional Examination Service.

Mechanical devices means intermittent compression devices. Mechanical devices do not include devices to perform spinal traction.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 114.

National association means the American Occupational Therapy Association or equivalent organization.

Occupational therapist means a person holding a current license to practice occupational therapy.

Occupational therapist registered means a person who is registered pursuant to guidelines established by the National Board for Certification in Occupational Therapy (NBCOT).

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. Occupational therapy encompasses evaluation, treatment, and consultation and may include:

1. Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes;
2. Adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance;
3. Disability prevention methods and techniques which facilitate the development or safe

- application of performance skills; and
4. Health promotion strategies and practices which enhance performance abilities.

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.

Occupational therapy assistant means a person holding a current license to assist in the practice of occupational therapy.

Occupational therapy services mean 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.

Official means issued by and under the original seal of the issuing institution.

Onsite means the location where the occupational therapy assistant is providing occupational therapy services.

Onsite supervision means the occupational therapist or occupational therapy assistant must be physically present at the practice site to direct all actions when occupational therapy services are being provided

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Physical agent modalities means modalities that produce a biophysiological response through the use of water, temperature, sound, electricity, or mechanical devices.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

Superficial thermal agent modalities means hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling technologies.

Supervision means the process by which the quantity and quality of work of an occupational therapy assistant is monitored. Supervision means the directing of the authorized activities of an occupational therapy assistant by a licensed occupational therapist and will not be construed to require the physical presence of the supervisor when carrying out assigned duties.

Treatment plan means a written statement setting forth the goals, method of treatment, and time frame for goal achievement.

114-003 INITIAL CREDENTIAL

114-003.01 Qualifications: To receive a credential to practice as an occupational therapist or an occupational therapy assistant, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Have successfully completed the academic requirements of an educational program in occupational therapy for an occupational therapist or occupational therapy assistant;
4. Field Experience: Have successfully completed an approved supervised fieldwork experience for an occupational therapist or for an occupational therapy assistant; and
5. Examination: Have passed the licensure examination with a scaled score of 450 or above for the applicable credential.

114-003.01A License Based on a License in Another Jurisdiction: If an applicant holds a current license in another jurisdiction as an occupational therapist or occupational therapy assistant and is practicing at the time s/he makes application, the applicant must meet the qualifications outlined in 114-003.01 items 1-5.

114-003.01B Passed Licensure Examination But Is Not Practicing An applicant who has met the requirements in accordance with 172 NAC 114-003.01, items 1-5, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure must present proof to the Department, that s/he has within the three years immediately preceding the

application for licensure, completed 50 hours of continuing education pursuant to 172 NAC 114-009.01, as follows:

1. 30 hours related to the clinical practice of occupational therapy; and
2. 20 hours related to the practice of occupational therapy.

114-003.01C Licensed in Another Jurisdiction But Is Not Practicing An applicant who has met the standards for licensure pursuant to 172 NAC 114-003.01, items 1-5, based on licensure in another jurisdiction and who is not practicing at the time of application for licensure must present proof to the Department, that s/he has within the three years immediately preceding the application for licensure, completed 50 hours of continuing education pursuant to 172 NAC 114-009.01, as follows:

1. 30 hours related to the clinical practice of occupational therapy; and
2. 20 hours related to the practice of occupational therapy.

114-003.01D Temporary License: A temporary license allows the applicant to practice only in association with a licensed occupational therapist and is valid until the date the results of the licensure examination are available to the Department. A temporary license may be issued to an applicant who has met all requirements for licensure pursuant to 172 NAC 114-003.01, except passing or failing the licensure examination.

114-003.01D1 Extension of Temporary License: A temporary credential holder who was unable to take the licensure examination may apply for an extension of his/her temporary license. A temporary license may not be extended beyond one year.

114-003.01D1a An applicant for extension of a temporary license must provide documentation showing good cause, which includes but is not limited to:

1. **Military Service:** An applicant who has served in the regular armed forces of the United States during part of the credentialing period immediately or is actively engaged in military service as defined in 172 NAC 114-002. The individual must document his/her military service by submitting to the Department:
 - a. Military identification proving that s/he is in active service;
 - b. Military orders; or
 - c. A letter from his/her Commanding Officer indicating that s/he is on active duty;
2. **Illness:** These circumstances may include proof that the credential holder was suffering from a serious or disabling illness or physical disability. The individual must document his/her illness by submitting to the Department a statement from treating physician(s) stating that the individual were injured or ill, the duration of the illness or injury and of the recovery period; or
3. **Other circumstances:** An applicant who suffered from circumstances beyond his/her control must submit documentation of the circumstances.

114-003.01D1b An applicant is ineligible for an extension if s/he:

1. Failed the licensure examination; or
2. Held a temporary occupational therapy license for one year.

114-003.02 Application: To apply for a credential to practice as an occupational therapist or occupational therapy assistant, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);

b. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced occupational therapy in Nebraska before submitting the application; or
- (2) If s/he has practiced occupational therapy in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and

c. Attestation: The applicant must attest that:

- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete;
- (3) S/he is of good character;
- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 114-011 or if an act(s) was committed, provide an explanation of all such acts;
- (5) S/he is;
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i.) A citizen of the United States; or
 - (ii.) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii.) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
 - c. Evidence that the applicant is:
 - (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
 - d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;

- (3) An American Indian Card (I-872);
- (4) A Certificate of Naturalization (N-550 or N-570);
- (5) A Certificate of Citizenship (N-560 or N-561);
- (6) Certification of Report of Birth (DS-1350);
- (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
- (8) Certification of Birth Abroad (FS-545 or DS-1350);
- (9) A United States Citizen Identification Card (I-197 or I-179);
- (10) A Northern Mariana Card (I-873);
- (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
 - (1) Name and date of diploma/degree awarded; and
 - (2) Name of school, college or university that awarded the degree;
 - (3) Official transcript from institution awarding the occupational therapy degree; and
 - (4) Dates of supervised field experience;
- f. Documentation of examination, including:
 - (1) Name of examination;
 - (2) Date of examination; and
 - (3) Proof of passing the licensure examination with a scaled score of 450 or above; and
- g. A statement from the applicant:
 - (1) Stating that the examination rating/grades have been requested from the appropriate examination service or State Board Office; and
 - (2) Stating that an official transcript of successful completion of an education program for an occupational therapist or occupational therapy assistant was requested to be sent to the Department.
- h. Documentation of licensure in another jurisdiction, including:
 - (1) Certification from the other jurisdiction (s) verifying licensure, including:
 - (a) Date of initial Licensure;
 - (b) The name of the examination on which licensure was based;
 - (c) The score attained on the examination;
 - (d) Date of the examination;
 - (e) Name of accredited program that the applicant presented a transcript from;
 - (f) The nature of disciplinary actions, if any, taken against the applicant's credential.
 - (2) The applicant must:
 - (a) Attest that s/he has practiced within the three years preceding the application;
 - (b) Provide the dates and locations of practice; and
- i. Documentation of continuing competency if s/he passed the licensure examination but is not practicing; Submit certificates of attendance verifying the 50 hours of continuing competency pursuant to 172 NAC 114-009.01; and

- j. Documentation of continuing competency if s/he is licensed in another jurisdiction but is not practicing; Submit certificates of attendance verifying the 50 hours of continuing competency pursuant to 172 NAC 114-009.01; and
3. Fee: The required license fee according to 172 NAC 2.

114-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

114-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

114-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC 114-011, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

114-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

114-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 114-014 or such other action as provided in the statutes and regulations governing the credential.

114-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

114-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

114-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

114-004 EXAMINATION ELIGIBILITY

114-004.01 To be eligible to take the licensure examination, an applicant must have met all the requirements for licensure that are pursuant to 172 NAC 114-003.01 except passage of such examination.

114-004.02 To take the examination, an applicant must submit a complete examination application form and fee to: NBCOT Testing Office, Professional Examination Service, 475 Riverside Drive, New York, NY 10115 or register online at www.nbcot.org

114-005 REQUIREMENTS FOR CERTIFICATION TO APPLY PHYSICAL AGENT MODALITIES:

In order to apply physical agent modalities, a licensed occupational therapist or licensed occupational therapy assistant must be certified by the Department. Any person who wishes to administer the modalities must obtain certification pursuant to Neb. Rev. Stat. § 38-2530. Physical agent modalities may be used by occupational therapy practitioners when used as an adjunct to/or in preparation for purposeful activity to enhance occupational therapy performance. Occupational therapy practitioners must have documented evidence of possessing the theoretical background and technical skills for safe and competent use.

114-005.01 Certification for a Licensed Occupational Therapist/Occupational Therapy Assistant to Apply Physical Agent Modalities: A licensed occupational therapist must obtain a certification to apply superficial thermal agent modalities, deep thermal agent modalities, or electrotherapeutic agent modalities, or a combination thereof. A licensed occupational therapy assistant must obtain a certification to apply superficial thermal agent modalities. An occupational therapist must not delegate evaluation, reevaluation, treatment planning and treatment goals for physical agent modalities to an occupational therapy assistant.

114-005.01A Superficial Thermal Agent Modalities: To receive a certification to apply superficial thermal agent modalities, a licensed occupational therapist or occupational therapy assistant must meet the following qualifications:

1. Successfully complete a minimum of six hours of Board approved training or its equivalent and pass an end of the course written or computer-based examination approved by the Board which tests competency in the use of superficial thermal agent modalities. The training must include the following:
 - a. Biophysical and biophysiological changes which occur with cryotherapy;
 - b. Indications, contraindications and precautions for the application of cold agents;
 - c. Clinical reasoning involved in the application of cold agents;
 - d. Commonly used types of cold agents;
 - e. Application procedures for each cold modality;
 - f. Definition of the term superficial thermal agent;
 - g. Differentiation between the two commonly used methods of heat transfer: conduction and convection;
 - h. The four biophysical effects of heat;
 - i. The physiologic response to tissue secondary to temperature elevation;
 - j. Differentiation between mild, moderate and vigorous dosages of heat;
 - k. Indications, precautions, and contraindications that should be considered when using superficial thermal agents;

- l. Proper clinical applications for hot packs, paraffin bath, fluidotherapy, whirlpool, and contrast bath;
 - m. Guidelines for educating the client and/or family in the purpose, benefit and potential risk(s) of the modality; and
 - n. Universal precautions, sterile techniques, infection control, and the use of modalities; OR
2. Be certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the Board. Any occupational therapist who bases their certificate on their hand therapist certification will receive certification for all three levels of physical agent modalities; OR
3. Have a minimum of five years of experience in the use of the superficial thermal agent modalities and pass the Nebraska Physical Agent Modalities Testing Service Examination titled Superficial Thermal Agents Test; OR
4. Successfully complete education during a basic educational program which includes demonstration of competencies for application of the superficial thermal agent modalities.

114-005.01A1 An occupational therapy assistant may only set up and implement superficial thermal agent modalities under the onsite supervision of an occupational therapist certified to administer superficial thermal agent modalities.

114-005.01B Deep Thermal Agent Modalities: To receive a certification to apply deep thermal agents, a licensed occupational therapist must meet the following qualifications:

1. Successfully complete a minimum of 12 hours of Board approved training or its equivalent and pass an end of the course written or computer-based examination and a practical examination approved by the Board which tests competency in the use of deep thermal agent modalities. The training must include the following:
 - a. Theory and rationale for the application of therapeutic ultrasound;
 - b. Differentiation between the parameters for therapeutic ultrasound;
 - c. Current research trends in the utilization of ultrasound;
 - d. Clinical decision making in the determination of the appropriate treatment parameters for ultrasound;
 - e. Clinical procedures for the application of ultrasound;
 - f. Safe use of ultrasound, contraindications and precautions for treatment; and
 - g. Methods for maximizing therapeutic effect in the use of phonophoresis as a physical agent modality; OR
2. Be certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the Board. Any occupational therapist who bases their certificate on their hand therapist certification will receive certification for all three levels of physical agent modalities; OR
3. Have a minimum of five years of experience in the use of the deep thermal agent

modalities and pass the Nebraska Physical Agent Modalities Testing Service Examination titled Deep Thermal Agents; OR

4. Successfully complete education during a basic educational program which includes demonstration of competencies for application of the deep thermal agent modalities.

114-005.01C Electrotherapeutic Agent Modalities: To receive a certification to apply electrotherapeutic agent modalities, a licensed occupational therapist must meet the following qualifications:

1. Successfully complete a minimum of 22 hours of Board approved training or its equivalent and pass an end of the course written or computer-based examination and a practical examination approved by the Board which tests competency in the use of electrotherapeutic agent modalities. The training must include the following:
 - a. Available parameters of electrical stimulation devices and the principles and concepts of electricity;
 - b. Physiological effects of electrical stimulation;
 - c. Therapeutic goals of electrical therapy;
 - d. Physiological events associated with electrical stimulation;
 - e. Distinguishing characteristic and indications and contraindications of electrical stimulation;
 - f. Physiological effects of various parameters of electrical stimulation (for example voltage, type, dosage, duty cycle, etc.);
 - g. Therapeutic relationship of electrotherapy with other therapeutic procedures;
 - h. Clinical application of electrical stimulation in rehabilitation;
 - i. Clinical reasoning process used to determine selection of Neuromuscular Electrical Stimulation (NMES) and appropriate parameters;
 - j. Parameters of therapeutic electrical currents;
 - k. Biophysiological responses to electrical currents;
 - l. Indications and contraindications for NMES use;
 - m. Appropriate electrode placement for treatment protocols;
 - n. Clinical applications for iontophoresis;
 - o. Definition and differentiation of the clinical application of iontophoresis from phonophoresis;
 - p. Biophysiology and mechanism related to transdermal delivery of medication;
 - q. Common medications used in iontophoresis and their pharmacology;
 - r. Clinical decision making regarding iontophoresis, indications and precautions;
 - s. The processes in pharmacokinetics: absorption, distribution, and metabolism;
 - t. The processes of pharmacodynamics as it pertains to routine drugs used in phonophoresis and iontophoresis;
 - u. Effects of physical agents, exercise, and manual techniques on pharmacokinetics; and
 - v. The aging process as it relates to pharmacokinetics; OR
 - w. Other nationally recognized commercially available technologies; OR
2. Be certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the Board. Any occupational therapist who

bases their certificate on their hand therapist certification will receive certification for all three levels of physical agent modalities; OR

3. Have a minimum of five years of experience in the use of the electrotherapeutic agent modalities and pass the Nebraska Physical Agent Modalities Testing Service Examination titled Electrotherapeutic Agents Test; OR
4. Successfully complete education during a basic educational program which includes demonstration of competencies for application of the electrotherapeutic agent modalities.

114-005.01D The Department will issue to each person who meets the requirements for a physical agent modality a certificate to administer physical agent modalities.

114-005.01D1 The certification to apply physical agent modalities will not expire.

114-004.01D2 The Department with the advice of the Board may discipline or deny a certificate to practice physical agent modalities for any of the grounds pursuant to 172 NAC 114-011

114-005.02 Application: To apply for certification to apply a physical agent modality, the applicant must submit a complete application to the Department. A complete application includes all required documentation and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced occupational therapy in Nebraska before submitting the application; or
 - (2) If s/he has practiced occupational therapy in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting

- the application for a credential and the name and location of practice; and
- c. License number and license type;
 - d. Type of physical agent modality;
 - (1) Superficial thermal agent certification; or
 - (2) Deep thermal agent certification; or
 - (3) Electrotherapeutic agents certification; or
 - (4) Combination of modalities certification;
 - e. Applying for physical agent modality certification by one of the following means:
 - (1) Training course; or
 - (2) Five years' experience and passage of written examination; or
 - (3) Education through basic occupational therapy degree program; or
 - (4) Hand Therapist Certification.
 - f. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 114-011 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is;
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i) A citizen of the United States; or
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's

- credential and a copy of the disciplinary action(s), including charges and disposition;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Applying for physical agent modality certification by one of the following means;
- (1) Training Course;
 - (a) Transcript or certification from one of the Board approved courses or its

equivalent

- (2) Five years' experience and passage of written examination;
 - (a) Start and end dates of employment using physical agent modalities;
 - (b) Name, address and phone number of employer;
 - (c) Name of clinic supervisor or manager;
 - (d) Types of physical agent modalities used during employment; and
 - (e) Nebraska Physical Agent Modalities Testing Service Examination results submitted directly to the Department. To take the examination, you will need to register online at www.pampca.org for the Nebraska Physical Agent Modalities Testing Service and select the appropriate physical agent modality test.
- (3) Education through basic occupational therapy degree program;
 - (a) Application demonstrating competencies for physical agent modalities completed by the following:
 - [1] Applicant;
 - [a] Name;
 - [b] Social Security Number;
 - [c] Name when enrolled in degree program;
 - [d] Name of college or university;
 - [e] Dates of attendance;
 - [f] Date of graduation;
 - [g] Type of degree; and
 - [h] Name of courses to be verified; and
 - [2] University or College Official;
 - [a] Name of university or college official;
 - [b] Title;
 - [c] Name of Institution;
 - [d] Phone number;
 - [e] Date; and
 - [f] Review of course to be verified
 - (4) Hand therapist certification;
 - (a) Hand Therapy Certification Commission Certificate Number

3. Fee: The required license fee according to 172 NAC 2.

114-005.03 Certification Examination: Any occupational therapist or occupational therapy assistant having a minimum of five years of experience with physical agent modalities must pass the certification examination.

114-005.03A Certification Examination Procedures: The Nebraska Physical Agent Modalities Testing Service Examination will be administered by the Physical Agent Modalities Practitioner Credentialing Agency (PAMPCA, LLC), 627 Crofton Park Lane, Franklin TN 37069-6515, (866) 341-4106 or (615) 794-4106. The superficial thermal agents test is the only examination occupational therapy assistants are eligible to take. To register for an examination, the applicant must register online at www.pampca.org for the Nebraska Physical Agent Modalities Testing Service Examination and select one of the following five testing options:

1. Superficial Thermal Agents Test;
2. Deep Thermal Agents Test;
3. Superficial and Deep Thermal Agents Test;
4. Electrotherapeutic Agents Test; or
5. Comprehensive Physical Agents Modalities Test (includes Superficial, Deep and Electrotherapeutic Agents Tests).

If an applicant fails to attain a passing score of 75%, the applicant will be allowed to take a second test. If an applicant fails to attain a passing score on the second attempt, the applicant will not be eligible to receive the physical agent modality certification based on five years' experience and will need to obtain their certification through a Board approved training course pursuant to 172 NAC 114.005.01A, 172 NAC 114-005.01B, 172 NAC 114-005.01C.

114.005.03B Examination Results: The applicant will receive a letter from PAMPCA informing them of their examination results upon the completion of one or a combination of one of the Nebraska Physical Agent Modalities Testing Service Examinations.

114-005.04 Approval of Physical Agent Modality Courses: For a physical agent modality course to be approved by the Board, the course must meet the requirements pursuant to 172 NAC 114-005.01A item 1, 172 NAC 114-005.01B item 1, or 172 NAC 114-005.01C item 1.

114-005.04A Application: To apply for approval of a physical agent modality course, the course provider must submit a complete application to the Department. A complete application includes all required documentation and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written application:
 - a. Application Information:
 - (1) Name of course provider;
 - (2) Mailing address (street, rural route, or post office address' and city, state, and zip code, or country information;
 - (3) Provider's telephone number including area code (optional);
 - (4) Contact person's name;
 - b. Course Information:
 - (1) Name of course;
 - (2) Type of physical agent modality that the course covers;
 - (a) Superficial;
 - (b) Deep thermal; or
 - (c) Electrotherapeutic;
 - (3) Name of primary instructor;
 - (4) Number of contact hours for the physical agent modality that the course covers;
 - c. Answer the following questions:
 - (1) Do you maintain a list of the names of the people who completed your course?
 - (2) Do you maintain the score of each person who completed the end-of-course

- examination?
- (3) If you maintain the scores, how long do you keep the information?
 - (4) Are you able to provide the Department with a list of the candidates who passed the course?
 - (5) How many questions does your bank of examination questions contain?
- d. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete.
2. Documentation: The providers must submit the following documentation with the application:
- a. A course outline that includes the objectives of the course;
 - b. An example of the end of course examination;
 - c. Instructor(s) curriculum vitae;
 - d. A sample of an official certificate of attendance or transcript. The certificate of attendance must be signed by the provider and the certificate or transcript must contain the following information:
 - (1) Name of course;
 - (2) Types of modalities that the course covers, (for example, superficial, electrotherapeutic, deep thermal);
 - (3) Date of course;
 - (4) Provider of course;
 - (5) Contact hours completed;
 - (6) Name of person attending the course; and
 - (7) The score received on the end-of-course examination; and
 - e. A description of the practicum procedures for the deep thermal and electrotherapeutic training, including the tool used to assess the candidate's competency

114-005.04B The approval of a course provider found to have issued a certificate of course completion to an individual who did not complete a course will be revoked.

114-005.04C Providers must agree that employees of the Department and/or its designees, in an official capacity, may audit classroom course instruction, course materials, instructors' presentations, course records, records of examination, attendance rosters and other aspects of instruction. These auditors will not be hindered, obstructed, delayed, prevented or interfered with while conducting or attempting to conduct an audit. Audits will be conducted with a minimum of disruptions. Providers agree that auditors may attend any Board-approved course offered for the purpose of the audit without paying any fee. Providers grant the Department and/or its designees the right to audit records at the premises of the provider or at the physical location of the records.

114-005.04D Providers must keep all records of attendance, records of examination, course records and requests for duplicate course completion certificates on file for five years. These records must be available to the Department upon request.

114-005.04E Once approved, a course may not be substantially altered without a new application being submitted to the Board. A substantial alteration is any change that would

modify the content or time allocations would change any of the course topics or a change in instructors. If there is a change in instructors, the provider must request approval of the instructor by submitting a curriculum vitae for the new instructor. The Board will evaluate the curriculum vitae and reaffirm or deny the physical agent modality course approval.

114-005.04F A course may not be advertised or otherwise promoted as appropriate for Nebraska physical agent modality certification until the course has been approved by the Board. Advertising a course as being offered for physical agent modality certification before approval of the course is grounds for disqualification as a provider.

114-005.04G The Board will semiannually develop and revise the list of approved physical agent modality certification courses, beginning with the effective date of these regulations, and will act within 150 days of all approved course applications.

114-005.04H Approved courses must be open to all licensees.

114-006 REQUIREMENTS FOR CONSULTING WITH OR SUPERVISING AN OCCUPATIONAL THERAPY ASSISTANT: An occupational therapy assistant may assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist.

114-006.01 If an occupational therapist is supervising or consulting with an occupational therapy assistant, s/he must meet the following standards:

1. Evaluate each patient prior to treatment by the occupational therapy assistant;
2. Develop a treatment plan outlining which elements have been delegated to the occupational therapy assistant;
3. Monitor patient's progress;
4. Approve any change in the occupational therapy treatment plan;
5. Ensure that the occupational therapy assistant is assigned only to duties and responsibilities for which s/he has been specifically trained and is qualified to perform;
6. Review all documentation written by the occupational therapy assistant;
7. Interpret the results of tests which are administered by the occupational therapy assistant; and
8. Evaluate the treatment plan and determine termination of treatment.

114-006.02 An occupational therapist supervising an occupational therapy assistant must, in addition to the standards pursuant to 172 NAC 114-006.01, provide the following:

1. A minimum of four hours per month of on-site supervision if an occupational therapy assistant has more than one year satisfactory work experience as an occupational therapy assistant; or
2. A minimum of eight hours per month of on-site supervision if an occupational therapy assistant has less than one year satisfactory work experience as an occupational therapy assistant.

114-007 ROLE DELINEATION FOR OCCUPATIONAL THERAPY ASSISTANT: A licensed occupational therapy assistant may perform the following duties while under the supervision of a licensed occupational therapist or while consulting with a licensed occupational therapist:

1. Explain overall occupational therapy services to client, family, or others who have legitimate interest in the case;
2. Solicit referrals from appropriate sources or acknowledge referrals received before or after initial screening for the purpose of initiating occupational therapy services by:
 - a. Responding to a request for service by relaying information or formal referral to the licensed occupational therapist; and
 - b. Entering cases as appropriate to standards of facility, department and profession when authorized by supervising occupational therapist.
3. Assess the need for, nature of, and estimated time of treatment, determining the needed coordination with other persons involved and documenting the activities by:
 - a. Screening clients to determine client's need for occupational therapy services. This may occur before or after referral by:
 - (1) Obtaining and reviewing written information about the client from medical records, school records, therapist records, etc.;
 - (2) Interviewing client, family, or others with legitimate interest in the case using a structured guide to obtain general history and information about family history, self-care abilities, academic history, vocational history, play history, and leisure interest and experiences; and
 - (3) Organizing, summarizing, and recording data collected by occupational therapy assistant and reporting such data to licensed occupational therapist.
 - b. Observing clients while engaged in individual and/or group activity to collect general data and report on independent living/daily living skills, selected sensorimotor skills, cognitive skills, and psychosocial skills;
 - c. Administering standardized and criterion referenced tests as directed by licensed occupational therapist to collect data on independent living/daily living skills and performance, sensorimotor developmental status, and cognitive skills and performance in the area of orientation;
 - d. Summarizing, recording, and reporting own evaluation data to licensed occupational therapist;
 - e. Assisting with the evaluation of the data collected; and
 - f. Reporting evaluation data as determined by the licensed occupational therapist to other appropriate persons.
4. Assist with the identification and documentation of achievable treatment goals to develop, improve, and/or restore the performance of necessary functions, compensate for dysfunction, and/or minimize debilitation in the areas of:
 - a. Independent living/daily living skills and performance;
 - b. Sensorimotor skills and performance in gross and fine coordination, strength and endurance, range of motion, and tactile awareness;
 - c. Cognitive skills and performance; and
 - d. Psychosocial skills and performance.
5. Assist in the identification and documentation of treatment methods by selecting occupational therapy techniques, media, and determining sequence of activities to attain goals in areas designated pursuant to 172 NAC 114-007.04 item 1 by:
 - a. Analyzing activities in reference to client's interests and abilities, major motor processes, complexity, steps involved, and extent to which it can be modified or adapted;
 - b. Adapting techniques/media to meet client need; and

- c. Discussing occupational therapy treatment plan with client, family, others with legitimate interests and staff.
6. Assist with implementation or modification of a treatment plan by the use of specific activities or methods which improve or restore performance of necessary functions; compensate for dysfunction; and/or minimize debilitation. The occupational therapy assistant, under the direction of a licensed occupational therapist, will:
 - a. Engage client in purposeful activity, in conjunction with therapeutic methods, to achieve goals identified in the treatment plan in the following areas:
 - (1) Independent living/daily living skills which include physical, psychological, emotional, work, and play;
 - (2) Sensorimotor components which include neuromuscular, tactile awareness, and postural balance;
 - (3) Cognitive components which include orientation and conceptualization;
 - (4) Therapeutic adaptation which includes orthotics, and assistive/adaptive equipment; and
 - (5) Prevention which includes energy conservation, joint protection/body mechanics, positioning and coordination of daily living skills.
 - b. Orient family and others about the activities being utilized in the treatment plan;
 - c. Provide instruction to client, family, and others with a legitimate interest in how to implement the home program developed by the licensed occupational therapist; and
 - d. Observe medical and safety precautions.
7. Assist in determining the need to terminate occupational therapy services when the client has achieved the treatment plan goals and/or has achieved maximum benefit from the services. The following steps must be taken:
 - a. Discuss need for treatment plan discontinuation with licensed occupational therapist;
 - b. Assist in preparing occupational therapy discharge plan by recommending adaptations to client's everyday environment;
 - c. Assist in identifying community resources; and
 - d. Assist in summarizing and documenting outcome of the occupational therapy treatment plan.
8. Participate in planning, organizing, and delivery of occupational therapy services by:
 - a. Planning daily schedule according to assigned workload;
 - b. Preparing and maintaining work setting, equipment, and supplies;
 - c. Ordering supplies and equipment according to established procedures;
 - d. Maintaining records according to Department procedure;
 - e. Ensuring safety and maintenance of program areas and equipment; and
 - f. Assisting with compiling and analyzing data of total occupational therapy service.
9. An occupational therapy assistant who is licensed by the State of Nebraska and has one year of practice experience can supervise an occupational therapy assistant student.

114-008 SUPERVISION OF AIDES IN OCCUPATIONAL THERAPY: An aide, as used in occupational therapy practice, is an individual who provides supportive services to the occupational therapist and the occupational therapy assistant. Aides are not primary service providers of occupational therapy in any practice setting. Aides do not provide skilled occupational therapy services. An aide is trained by an occupational therapist or an occupational therapy assistant to perform specifically delegated tasks. The occupational therapist is responsible for the overall use and actions of the aide. An aide first must demonstrate competency to be able to perform the assigned, delegated client and non-client-related tasks.

1. The occupational therapist must oversee the development, documentation, and implementation of a plan to supervise and routinely assess the ability of the occupational therapy aide to carry out client and non-client-related tasks. The occupational therapy assistant may contribute to the development and documentation of this plan.
2. The occupational therapy assistant may supervise the aide.
3. Non-client-related tasks include clerical and maintenance activities and preparation of the work area or equipment.
4. Client-related tasks are routine tasks during which the aide may interact with the client but does not act as a primary service provider of occupational therapy services. Onsite supervision of an aide is required by an occupational therapist or an occupational therapy assistant when an aide is performing all client-related tasks. Onsite supervision of an aide means that the occupational therapist or occupational therapy assistant must be physically present at the practice site to direct all actions when occupational therapy services are being provided.

114-008A The following factors must be present when an occupational therapist or occupational therapy assistant delegates a selected client-related task to the aide:

1. The outcome anticipated for the delegated task is predictable;
2. The situation of the client and the environment is stable and will not require that judgment, interpretations, or adaptations be made by the aide;
3. The aide has demonstrated some previous performance ability in executing the task; and
4. The task routine and process have been clearly established.

114-008B When performing delegated client-related tasks, the supervisor must ensure that the aide:

1. Is trained and able to demonstrate competency in carrying out the selected task and using equipment, if appropriate;
2. Has been instructed on how to specifically carry out the delegated task with the specific client; and
3. Knows the precautions, signs, and symptoms for the particular client that would indicate the need to seek assistance from the occupational therapist or occupational therapy assistant.

114.008C The supervision of the aide must be documented and include:

1. Information about frequency and methods of supervision used;
2. The content of the supervision; and
3. The names and credential of all persons participating in the supervisory process.

114.008D An occupational therapy aide may not perform evaluation, reevaluation, treatment planning or establish treatment goals.

114-009 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the expiration date of the credential, comply with the

continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 114-010.03 and 114-010.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

On or before the August 1 of each even numbered year the credential holder must:

1. Complete 20 hours of continuing education during the preceding 24 month period if an occupational therapist;
2. Complete 15 hours of continuing education during the preceding 24 month period if an occupational therapy assistant; and
3. Be responsible for:
 - a. Maintaining until the next renewal period documentation of attendance at, or participation in, continuing education programs/activities and the program outline and/or objectives; and
 - b. Maintaining documentation of presentation of a continuing education program if the licensee is presenting a program.

114-009.01 Acceptable Continuing Education: In order for a continuing education activity to be accepted for renewal or reinstatement of a license, the continuing education activity must relate to occupational therapy and it may focus on research, treatment, documentation, management, or education.

114-009.01A A continuing education activity, except formal and informal self study, student supervision, and participation in research will be acceptable when:

1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the licensee;
2. The objectives of the continuing education activity relate to the practice of occupational therapy;
3. It has a date, location, course title, number of contact hours, signed certificate of attendance and is open to all licensees; and
4. The instructor has specialized experience or training to meet the objectives of the course.

114-009.01B One hour of credit will be awarded for each hour of attendance. Credit will not be awarded for breaks or meals.

114.009.01C The Board does not pre-approve continuing education programs but will accept as continuing education for renewal of a license or reinstatement of a license the following continuing education activities:

1. Programs at State and National association meetings (for example, a meeting of the Nebraska or other state occupational therapy associations and/or the American Occupational Therapy Association) A licensee's documentation must include a certificate of attendance, and a program outline and/or objectives;
2. Workshops, seminars, webinars and/or conferences where the content of the continuing education activity relates to occupational therapy whether the subject is research, treatment, documentation, or education management, which includes

- monitored videotapes, and in-service programs. A licensee's documentation must include a certificate of attendance, and a program outline and/or objectives;
3. University or college sponsored courses where the content of the course relates to occupational therapy whether the subject is research, treatment, documentation, education, or management. A licensee must provide documentation of successfully completing the course. A licensee's documentation must include an official transcript, and a program outline and/or objectives;
 4. Formal self-study where the content of the self-study activity relates to occupational therapy whether the subject is research, treatment, documentation, education, or management (for example, videotapes, internet courses, correspondence courses and/or AOTA self-studies.) The self-study program must have a testing mechanism. A licensee's documentation must include a certificate of completion, and a program outline and/or objectives;
 5. Management courses which pertain to the practice of occupational therapy. An occupational therapist may complete a maximum of ten hours of continuing education utilizing management courses each 24 month renewal period. An occupational therapy assistant may complete a maximum of seven and one half hours of continuing education utilizing management courses each 24 month renewal period. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives;
 6. Student supervision by an occupational therapist or occupational therapy assistant. One contact hour is earned for being a primary direct clinical supervisor for each student's entire level II fieldwork experience. Licensee may receive a maximum of two contact hours of continuing education by supervising a student each 24 month renewal period. A licensee's documentation must include a copy of the signature page of the completed fieldwork evaluation form for each supervised student;
 7. Participation in research or other scholarly activities that result in professional publication or acceptance for publication that relate to occupational therapy. Four contact hours will be received for each publication. Licensees may earn up to a maximum of ten contact hours of continuing education each 24 month renewal period for authorship, editorship, co-authorship, co-editorship, or all of these, of a juried publication relating to occupational therapy. A licensee's documentation must include a copy of the final publication or verification of publication (for example, title page and table of contents);
 8. Informal self-study: A licensee may earn up to a maximum of two contact hours of continuing education each 24 month renewal period for completion of the following activities or a combination of such activities:
 - a. Reading related to occupational therapy practice;
 - b. Observing other occupational therapists;
 - c. Viewing videotapes without a supervisor; and
 - d. Quality assurance or peer review studies.

A licensee's documentation when reading or viewing videotapes must include the name of the article, book or videotape and a brief synopsis of what was learned. Documentation, when observing other therapists and participating in quality assurance and peer review studies, must include a statement from the licensee explaining what was learned; and

9. Nationally recognized specialty certification examinations: A licensee will earn 20 contact hours of continuing education each 24 month renewal period for successful completion of a nationally recognized specialty certification examination related to an area of advanced practice in the field of occupational therapy. A licensee's documentation must include a copy of the certification.

114-009.01E One hour credit will be awarded for each hour of scientific presentation by a licensee at workshops, seminars, in-service training, conferences, or guest lectures which relate to the practice of occupational therapy. A licensee may receive continuing education credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program. A licensee may complete a maximum of four hours of continuing education credit for presentations in a 24 month renewal period. A licensee's documentation must include the presentation outline, course objectives, date, location, time, and type of audience.

114-009.01F Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the content does not relate to occupational therapy whether the subject is research, treatment, documentation, education, or management, including but not limited to:

1. Medical terminology courses;
2. Occupational therapy on-the-job training;
3. Occupational therapy orientation programs, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.; or
4. CPR or other related training.

114-010 RENEWAL: An individual who wants to renew his/her occupational therapy license must request renewal as specified in 172 NAC 114-010.02. All occupational therapy licenses issued by the Department will expire on August 1 of each even-numbered year.

114-010.01 Renewal Notice: At least 30 days before the expiration of a license, the Department will notify each license holder by regular mail to the last known address of record. The renewal notice will include:

1. The type of license;
2. The license number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a license on inactive status.

114-010.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.
- Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 114-009 or has requested a waiver if s/he meets the requirements of 172 NAC 114-010.03 and/or 114-010.04;
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 114-011.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take an

examination, an explanation of the basis for the denial;

- e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and

3. Fees: The renewal fee according to 172 NAC 2.

114-010.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 114-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

114-010.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

114-010.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include proof that the credential holder was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or

114-010.04B The licensee has successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program

relating to occupational therapy.

114-010.05 Audit Of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

114-010.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

114-010.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

114-010.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes:

1. Copies of certificates of attendance or participation in a continuing education activity; and
2. Course outlines and/or objectives; or
3. Letters documenting attendance from providers; or
4. Copies of transcripts from educational institutions.

114-010.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

114-010.05E The Department will notify the credential holder upon satisfactory completion of the audit.

114-010.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

114-010.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

114-010.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

114-010.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

114-010.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

114-010.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

114-010.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

114-010.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

114-010.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice occupational therapy terminates.

114-010.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 114-014 or such other action as provided in the statutes and regulations governing the credential.

114-010.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of occupational therapy after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 114-013.

114-010.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

114-010.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

114-010.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of occupational therapy, but may represent him/herself as having an inactive credential.

114-010.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 114-013.

114-011 DISCIPLINARY ACTIONS

114-011.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 114-011.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the

- particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
 17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
 18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
 19. Failure to maintain the requirements necessary to obtain a credential;
 20. Violation of an order issued by the Department;
 21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
 22. Failure to pay an administrative penalty; and/or
 23. Unprofessional conduct as defined in 172 NAC 114-011.02.

114-011.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
12. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
13. Making use of any advertising statements of a character tending to deceive or mislead the public;

14. Advertising professional superiority or the performance of professional services in a superior manner;
15. Failure to accurately represent his/her skills to a patient/client;
16. Delegating to other personnel those patient/client related services when the clinical skills and expertise of an occupational therapist is required;
17. Failure to decline to carry out occupational therapy services that have been requested when such services are believed to be contraindicated or unjustified;
18. Committing any act which endangers patient/client safety or welfare;
19. Failure to utilize appropriate judgment in administering safe Occupational Therapy practice;
20. Failure to exercise technical competence in carrying out Occupational Therapy;
21. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
22. Failure to safeguard the patient's dignity and right to privacy; violating the confidentiality of information or knowledge concerning the patient;
23. Failure to accurately record and report information or falsification or unauthorized destruction of patient records;
24. Misappropriating supplies or personal items of a patient/client or agency;
25. Exercising undue influence on patients/clients to purchase equipment produced or supplied by a company in which the Occupational Therapist owns stock or has any other direct or indirect financial interest;
26. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
27. Verbally or physically abusing patients;
28. Willful betrayal of a professional secret except as otherwise provided by law;
29. Sexual Harassment: An Occupational Therapist must not under any circumstances engage in sexual harassment of patients.
 - a. Sexual Harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:
 - (1) The provision or denial of Occupational Therapy to a patient; or
 - (2) For the purpose or effect of creating an intimidating, hostile, or offensive environment for the patient or unreasonably interfering with a patient's ability to recover.
30. Competence: An occupational therapist or occupational therapy assistant must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of occupational therapy includes but is not limited to performing or agreeing to perform procedures when the procedures are known to be a departure from standard or acceptable and prevailing practice as a hearing instrument specialist, but not to include a single act of ordinary negligence.
31. Practicing the profession of Occupational Therapy while his/her license, certificate or registration is suspended or is guilty of practicing such profession while his/her license to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his/her license, certificate, or registration; or
32. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents.

114-011.03 Temporary Suspension or Limitation

114-011.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 114-011.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

114-011.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

114-011.03C A temporary suspension or temporary limitation of a credential under 172 NAC 114-011.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

114-011.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

114-011.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

114-011.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 114-011.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by

- one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

114-012 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

114-012.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

114-012.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

114-012.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within

30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

114-012.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

114-012.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

114-012.06 Reinstatement following voluntary surrender is set out in 172 NAC 114-013

114-013 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

114-013.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter: The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);

- (3) The applicant's:
 - a. Social Security Number (SSN); or
 - b. Alien Registration Number (A#); or
 - c. Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
 - d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 114-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 114-011 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act; and
2. The following fee(s) as determined by 172 NAC 2:
 - a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

114-013.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take

one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

114-013.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

114-013.01C The Department will act within 150 days on all completed applications.

114-013.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

114-013.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 114-013.01.

114-013.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement based on the provisions in the order accepting the voluntary surrender.

The applicant must submit to the Board:

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;

- (5) A statement of the reason the applicant believes his/her credential should be reinstated;
- b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence, and/or immigration status which may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 114-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 114-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act; and

2. Fees: The renewal fee according to 172 NAC 2.

114-013.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

114-013.3B The Department, with the recommendation of the Board, may:

- 1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
- 2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals

- appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
 4. Require the applicant to successfully complete additional education at the expense of the applicant;
 5. Require the applicant to successfully pass an inspection of his/her practice site; or
 6. Take any combination of these actions.

114-013.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 114-013.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 114-014, in which case a separate notice of opportunity for hearing will be sent to the applicant.

114-013.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

114-013.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

114-013.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

114-013.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

114-013.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

114-013.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to

the decision. The appeal must be in accordance with the Administrative Procedure Act.

114-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

114-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

114-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.

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2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

114-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

114-015 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

114-016 METHOD OF IDENTIFICATION: Every person credentialed as an occupational therapist or occupational therapy assistant shall make his/her current credential available upon request. The method of identification shall be clear and easily accessed and used by the consumer. All signs, announcements, stationery, and advertisements of occupational therapists or occupational therapy assistants shall identify the profession. The initials OT and OTA are acceptable as minimum identifiers with the addition of R for registered, C for certified and L for licensed as applicable.

These amended rules and regulations replace Title 172 NAC 114 Regulations Governing the Practice of Occupational Therapy, effective May 6, 2006.

Approved by the Attorney General:	June 5, 2012
Approved by Governor:	July 26, 2012
Filed with Secretary of State of Nebraska:	July 26, 2012
Effective Date:	July 31, 2012

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 120 LICENSURE OF OPTOMETRISTS

120-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of optometry under Neb. Rev. Stat. §§ 38-2601 to 38-2623 and the Uniform Credentialing Act (UCA).

120-002 DEFINITIONS

Accredited school or college of optometry means a school or college which is accredited by a regional or professional accrediting organization that is recognized by the Council of Postsecondary Accreditation of the United States Department of Education and is approved by the Board.

Act means Neb. Rev. Stat. §§ 38-2601 to 38-2623, known as the Optometry Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved examination means an examination which is approved by the Department of Health and Human Services upon recommendation of the Board of Optometry.

Attest/Attestation means that the individual declares that all statements on the application are true and complete.

Board means the Board of Optometry.

Certificate means an authorization issued by the Department that gives a person the right to use a protected title that only a person who has met specific requirements may use.

Clinical training means training of an applicant for certification to use pharmaceutical agents for diagnostic purposes or for diagnostic and therapeutic purposes offered by a school or college approved by the Department.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Continuing education means the offering of instruction or information to licensees for the purpose of maintaining skills necessary to the safe and competent practice of optometry. The continuing education may be offered under such names as "scientific school", "clinic", "forum", "lecture", "course of study" or "educational seminar". In order for continuing education to be recognized for licensure renewal, it must be approved by the Board.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;

2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Drug Utilization Review (DUR) means an authorized, structured, ongoing program that collects, analyzes, and interprets drug use patterns to improve the quality of pharmacotherapy and patient outcomes.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Hour means a period of 50 minutes of formal instruction, otherwise known as a "contact hour."

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

Label means all legible written information provided by the optometrist to the patient that is affixed to the packaging provided to the patient.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Medicated contact lenses means contact lenses containing an ocular pharmaceutical agent.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 120.

Official transcript means issued by and under the original seal of the educational institution.

Packaging means the container provided by an optometrist to the patient.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Person means individual, corporation, partnership or other for-profit or not-for-profit entity.

Pharmaceutical agents for diagnostic purposes means anesthetics, cycloplegics, and mydriatics.

Pharmaceutical agents for therapeutic purposes has the same meaning as in Neb. Rev. Stat. § 38-2604.

Practice management means the study of management of the business affairs of optometric practice. This includes the concepts of managed care and operations management, courses designed to help market practices, to educate office staff, to improve billing efficiency and coding skills, to improve clinical recordkeeping and to enhance fiscal efficiency. This does not include courses that are intended for personal enhancement or investment prowess.

Prescription file means a file of prescriptions dispensed that is separate and distinct from the patient record.

Prescription label means a label that provides the patient all of the information required by section 120-012.02. The information required of a prescription label may be found either on a writing affixed to the packaging by the optometrist, or on the packaging (e.g., manufacturer's container), or a combination of the packaging and a writing affixed to the packaging.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. Record includes a hard copy and record includes an "electronic medical record" (EMR).

Record keeping means creating, maintaining, and securing records necessary for drug utilization review and prescription files.

Served in the regular armed forces has the same meaning as "military service" in these regulations.

Storage means securing and preserving drug, device, or biological in accordance with the requirements of federal laws (e.g., Food and Drug Administration label specifications) and the requirements of Nebraska's laws (e.g., these regulations).

120-003 INITIAL CREDENTIAL

120-003.01 Qualifications: To receive a credential to practice optometry, an individual must meet the following qualifications:

120-003.01A Optometrist Licensure by Examination:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Have graduated from an accredited school or college of Optometry;
4. Examination:
 - a. Pass Part I, Part II and Part III of the examination given by the National Board of Examiners in Optometry (NBEO); and
 - b. Pass a jurisprudence examination that relates to the statutes and regulations that govern optometry with a minimum score of 60% or above.

120-003.01B Optometrist Licensure Based on Licensure in Another U.S. Jurisdiction: An applicant who is currently licensed as an optometrist in another state or territory of the United States or the District of Columbia seeking a license in Nebraska must:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Have graduated from an accredited school or college of Optometry;
4. Experience: Have been actively engaged in the practice of optometry for at least two years of the three years immediately preceding the date of application, must be credentialed in another U.S. jurisdiction at the highest level required for optometrist licensure in that U.S. jurisdiction where the applicant is currently licensed, and such level is determined by the Board to be at least equivalent to the current scope of practice in Nebraska;
5. Examination: Pass a jurisprudence examination that relates to the statutes and regulations that govern optometry with a minimum score of 60% or above.

120-003.02 Application: To apply for a credential to practice optometry, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an

application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);

b. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced optometry in Nebraska before submitting the application; or
- (2) If s/he has practiced optometry in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;

c. The applicant must also provide information related to the following, as requested on the application of the Department:

- (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
- (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
- (3) History of any remedial or disciplinary actions during optometry school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
- (4) Any employment disciplinary actions or non-renewal of an

- employment contract;
- (5) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (6) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (7) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- d. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and

- disposition;
- (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
- (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
- (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Official transcript showing graduation from an accredited school or college of optometry sent directly to the Department from the educational institute;
- f. Satisfactory evidence of being credentialed in another U.S. jurisdiction at the highest level of licensure required to practice optometry in the U.S. jurisdiction where the applicant is currently licensed;
- g. Verification of licensure as an optometrist from all states or territories of the United States or the District of Columbia where the applicant holds or has ever held an optometrist license sent directly to the Department from the licensing agency;
- h. A copy of the certificate of passing the Nebraska jurisprudence examination;

- i. Official documentation of examination scores sent directly to the Department from the entity that administered the examination (if applicable); and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

120-003.02A Criminal Background Checks: An applicant must:

1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked "Reason Fingerprinted", print "Credential";
3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 120-003.02B1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

120-003.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

120-003.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

120-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

120-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential; the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 120-006, the Department may deny issuance of a credential.

To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

120-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

120-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 120-010 or such other action as provided in the statutes and regulations governing the credential.

120-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

120-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

120-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

120-004 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 120-005.03 and 120-005.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

120-004.01 On or before the credential expiration date of August 1 of even-numbered years, the credential holder must complete 44 hours of approved continuing education during the preceding 24-month period. Subject matter acceptable for continuing education credit is described as follows:

1. State and national meetings, e.g., a meeting of the Nebraska Optometric Association or American Optometric Association;
 - a. One hour credit for each hour of attendance, and only the portion of the meeting which meets the definition of continuing education can be accepted for credit.
2. Formal education courses which relate directly to the practice of optometry:

- a. One hour credit for each hour of attendance;
3. Optometric college-sponsored courses in continuing education in optometry:
 - a. One hour credit for each hour of attendance;
4. Home study with testing mechanism. Licensee may complete a maximum of eight hours of the continuing education requirements by home study during the 24 month renewal period. If there is not a testing mechanism or certificate of completion, the licensee must submit an abstract or resume of the material covered to the Board of Optometry. Said abstract or resume must be written by only the licensee and will be reviewed by members of the Board.
 - a. Examples of home study courses include, but are not limited to, professional journals articles, profession related Internet courses, CD-ROM courses, videotape courses, and audiotape courses.
 - b. One credit hour for each hour of study.
5. Initial Cardiopulmonary Resuscitation (CPR) certification or CPR re-certification.
 - a. One credit hour for each hour of CPR certification or CPR re-certification; no more than two credit hours of this type of continuing education may be counted within the 24-month renewal period.
6. Practice Management courses.
 - a. One credit hour for each hour of practice management; no more than four credit hours of this type of continuing education may be counted within the 24-month renewal period.
7. Examples of unacceptable subject matter include, but are not limited to, education provided by a business entity for the purpose of promotion of their products or services.

120-005 RENEWAL: An individual who wants to renew his/her optometry credential must request renewal as specified in 172 NAC 120-005.02. All optometry credentials issued by the Department will expire on August 1 of each even-numbered year.

120-005.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and

6. Information on how to request renewal and how to place a credential on inactive status.

120.005.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number; and
 - c. Must attest that s/he has met the continuing competency requirements specified in 172 NAC 120-004 or has requested a waiver if s/he meets the requirements of 172 NAC 120-005.03 and/or 120-005.04.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a

- credentialed examination, an explanation of the basis for the denial;
- e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
- (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and
4. The renewal fee according to 172 NAC 2.

120-005.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 120-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

120-005.04 Waiver of Continuing Competency Requirements

1. The Department waives continuing competency requirements for individuals who were first credentialed within the 26-month period immediately preceding the renewal date.
2. The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include suffering from a serious or disabling illness or physical disability which prevented completion of the required continuing competency activities.

120-005.05 Audit of Continuing Competency Requirements: The Department or the Board

may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

120-005.05A The Department/Board will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

120-005.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

120-005.05C Acceptable documentation that the credential holder has met the continuing competency requirements include documentation of attendance at or participation in acceptable continuing education activities. Documentation provided by OE Tracker, a service of the Association of Regulatory Boards of Optometry (ARBO), is acceptable documentation of continuing competency activities for audit purposes.

120-005.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

120-005.05E The Department/Board will notify the credential holder upon satisfactory completion of the audit.

120-005.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

120-005.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

120-005.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

120-005.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

120-005.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

120-005.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

120-005.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

120-005.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

120-005.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice optometry terminates.

120-005.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 120-010 or such other action as provided in the statutes and regulations governing the credential.

120-005.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of optometry after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 120-008.

120-005.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

120-005.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

120-005.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of optometry, but may represent him/herself as having an inactive credential.

120-005.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 120-008.

120-006 DISCIPLINARY ACTIONS

120-006.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 120-006.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations

- adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
 19. Failure to maintain the requirements necessary to obtain a credential;
 20. Violation of an order issued by the Department;
 21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
 22. Failure to pay an administrative penalty;
 23. Unprofessional conduct as defined in 172 NAC 120-006.02; or
 24. Violation of the Automated Medication Systems Act.

120-006.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement;
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency:
 - (1) One's spouse;

- (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
 14. Conduct by an optometrist that is likely to deceive, defraud, or harm the public;
 15. Making a false or misleading statement regarding his/her skill as an optometrist or the efficacy or value of the medicine, device, treatment, or remedy prescribed by him/her or used at his/her direction in the practice of optometry;
 16. Gross negligence in the practice of optometry;
 17. Practice or other behavior that demonstrates a willful rendering of substandard care, either individually or as a part of a third-party reimbursement agreement or other agreement;
 18. The use of any false, fraudulent, deceptive or misleading statement in any document pertaining to the practice of optometry;
 19. Prescribing, selling, administering, or distributing, any drug legally classified as a prescription drug, other than with proper certification to prescribe topical ocular pharmaceutical agents which treat eye infection, inflammation and superficial abrasions;
 20. Knowingly giving to a habitue or addict any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug;
 21. Prescribing, selling, administering, distributing, or giving a drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to a family member or himself/herself;
 22. Conviction of any state or federal law or regulation relating to a drug legally classified as a controlled substance;
 23. Failure to report to the Department the relocation of any or all of his/her office(s) or place(s) of practice, in or out of the jurisdiction, within 90 days of the relocation;
 24. Failure to furnish the Board, its investigators or representatives, information legally requested by the Board;
 25. Willful or repeated violation of any provision(s) of Neb. Rev. Stat. §§ 38-2601 to 38-2623 or any Rules and Regulations promulgated thereto;
 26. To advertise in a manner that deceives, misleads, or defrauds the public. The following advertising practices will be considered to be deceptive:
 - a. To advertise or promote any optometric service as free or below the advertiser's or promoter's own cost without revealing in the advertising or promotion the minimum expenditure the consumer must incur in order to receive the service. If the consumer need not incur any expense to obtain the service, then the advertising or promotion must state that there is no minimum purchase required;
 - b. To fail to advertise the names of all licensed optometrists who are providing optometric service who are addressed by the advertisement;
 - c. To fail to place in any advertisement either the word Optometrist, the abbreviation O.D., or Doctor of Optometry behind one's name when it appears in an advertisement;
 - d. To place in any advertisement a name that is different than the name that appears on the optometrist's license;

- e. To fail to inform the patient of any time schedule within which a fee is to be effective, if the fee applies to a particular service for a given time;
 - f. To fail to charge the same fee for a service as that which is advertised;
 - g. To advertise that in exchange for a particular fee, a manifestly incurable disease can be permanently cured;
 - h. To fail to specify the full name of the professional body from which board certification was received when referring to certificates from professional certifying bodies;
 - i. To advertise or promote any optometric service with statements that cannot be verified, substantiated or measured; and
 - j. To advertise or promote any optometric service in violation of Neb. Rev. Stat. §§ 87-301 through 87-306, the Uniform Deceptive Trade Practices Act.
27. Failing to include in any identification of an individual licensed under Neb. Rev. Stat. § 38-2601 the term Optometrist, O.D, or Doctor of Optometry;
28. Practicing optometry without the licensee's credential available in each place of practice. Failure to show his/her credential upon request. Failure to use the designation of Optometrist, O.D., or Doctor of Optometry on all signs, announcements, stationery, and advertisements of licensee's services pursuant to Neb. Rev. Stat. § 38-124;
29. Failure to report to the Department the name of every person without a license or certificate that s/he has reason to believe is engaging in the practice of any profession for which a license or certificate is required pursuant to the Uniform Credentialing Act Neb. Rev. Stat. § 38-1,124;
30. Receiving or giving fees for professional services to any person in exchange for referring patients; and
31. Failure of a licensed optometrist who administers or prescribes pharmaceutical agents for examination or for treatment to provide the same standard of care to patients as that provided by a physician licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents for examination or treatment.
32. Any departure from or failure to conform to the ethics of the optometric profession, which ethics are found in the American Optometric Association's An Optometrist's Guide to Clinical Ethics;
33. Misrepresentation of material facts in applying for or procuring a renewal of a license or certification;
34. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
35. Providing treatment or consultation recommendations via electronic or other means, including issuing a prescription, unless the optometrist has obtained a history and evaluation of the patient adequate to establish diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided and that arrangements exist to insure availability of the optometrist or optometrist coverage for follow-up patient care;
37. Disruptive behavior, whether verbal or physical, as manifested by an optometrist's aberrant behavior which interferes with patient care or could reasonably be expected to interfere with patient care, including, but not limited to, the following:
- a. Outbursts of rage or violent behavior;
 - b. Throwing of instruments, records, or objects;

- c. Insulting comments to a patient, patient's family, staff or other healthcare professionals;
 - d. Striking or assaulting a patient, patient's family, staff or other healthcare professionals; or
 - e. Poor hygiene; and
38. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department.

120-006.03 Temporary Suspension or Limitation

120-006.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 120-006.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

120-006.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

120-006.03C A temporary suspension or temporary limitation of a credential under 172 NAC 120-006.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

120-006.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

120-006.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

- 1. Censure;
- 2. Probation;
- 3. Limitation;
- 4. Civil Penalty;
- 5. Suspension; or
- 6. Revocation.

120-006.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 120-006.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

120-007 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number (optional); and
 - d. Fax number (optional).
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

120-007.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or

4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

120-007.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

120-007.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

120-007.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

120-007.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

120-007.06 Reinstatement following voluntary surrender is set out in 172 NAC 120-008.

120-008 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

120-008.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter: The applicant must submit to the Department:

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) The applicant must also provide information related to the following, as requested on the application of the Department:
 - (a) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (i) Voluntary surrenders or voluntary limitations;
 - (ii) Currently pending investigations or complaints;
 - (iii) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (b) Information relating to fitness to practice including, but not limited to:
 - (i) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (ii) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (c) History of any remedial or disciplinary actions during optometry school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;

- (d) Any employment disciplinary actions or non-renewal of an employment contract;
 - (e) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (f) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (i) Denials of registration;
 - (ii) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (iii) Surrenders of a state or federal controlled substances registration;
 - (iv) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (g) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
- (1) Has met the continuing competency requirements specified in 172 NAC 120-004 within the 24 months immediately preceding submission of the application;
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 120-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
2. Fee: The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal

- fees; or
- b. If the credential was voluntarily surrendered, the renewal fee.

120-008.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

120-008.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

120-008.01C The Department will act within 150 days on all completed applications.

120-008.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

120-008.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 120-008.01.

120-008.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:

- (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.
- Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - (6) The applicant must also provide information related to the following, as requested on the application of the Department:
 - (a) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (i) Voluntary surrenders or voluntary limitations;
 - (ii) Currently pending investigations or complaints;
 - (iii) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (b) Information relating to fitness to practice including, but not limited to:
 - (i) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (ii) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (c) History of any remedial or disciplinary actions during optometry school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (d) Any employment disciplinary actions or non-renewal of an employment contract;
 - (e) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (f) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (i) Denials of registration;
 - (ii) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (iii) Surrenders of a state or federal controlled substances registration;
 - (iv) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (g) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a

- copy of:
- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
- (1) Has met the continuing competency requirements specified in 172 NAC 120-004 within the 24 months immediately preceding submission of the application;
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 120-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and

2. Fee: The renewal fee.

120-008.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

120-008.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

120-008.03C On the basis of the written application, materials submitted by the

applicant, and the information obtained under 172 NAC 120-008.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 120-010, in which case a separate notice of opportunity for hearing will be sent to the applicant.

120-008.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

120-008.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

120-008.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with

terms and conditions.

2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

120-008.03G Denial Decision: if the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

120-008.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any findings of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

120-008.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

120-009 PROCEDURES FOR CERTIFICATION TO USE PHARMACEUTICAL AGENTS: In order to use pharmaceutical agents for diagnostic or therapeutic purposes, a licensee must be certified by the Department. The criteria for issuance of certification to use pharmaceutical agents for diagnostic or therapeutic purposes and the documentation required by the Department and the Board are set forth below.

120-009.01 Certification to Use Pharmaceutical Agents for Diagnostic Purposes

120-009.01A Applicants for certification to use pharmaceutical agents for diagnostic purposes must:

1. Have a current Nebraska license to practice optometry and meet the following criteria:
 - a. Satisfactorily complete an approved course in pharmacology provided by an accredited school or college of optometry;
 - (1) An approved course in pharmacology for a certification to use pharmaceutical agents for diagnostic purposes must meet the following criteria:
 - (a) Include a study of ocular anesthetics, mydriatics, cycloplegics, ocular toxicity of pharmaceutical agents, ocular allergies of ocular agents, and pharmacologic effects of ocular drug substances;
 - (b) Include the consideration of the mechanism of action of anesthetics, cycloplegics, and mydriatics in human beings and the uses of the substances in the diagnosis of occurring ocular disorders; and
 - (c) Correlate the utilization of pharmaceutical agents and optical instrumentation and procedures; and
 - b. Meet one of the following:
 - (1) Pass an approved examination which covers ocular pharmacology for the use of pharmaceutical agents for diagnostic purposes pursuant to 172 NAC 120-009.01A item 1 administered by the National Board of Examiners in Optometry (NBEO) with a passing score, or
 - (2) Pass an examination which covers ocular pharmacology pursuant to 172 NAC-120-009.01A item 1 administered by an accredited school or college of optometry with a passing score; or
 - (3) Be credentialed in another U.S. jurisdiction at the highest level required for optometrist licensure in the U.S. jurisdiction where the applicant is currently licensed and such level is determined by the Board to be at least equivalent to the current scope of practice in Nebraska; and

- c. Submit to the Department:
 - (1) A complete application on a form provided by the Department or on an alternate format. The application must include the following information:
 - (a) Name;
 - (b) Address, including city, state and zip code;
 - (c) Telephone number (optional);
 - (d) Nebraska optometry license number (if applicable);
 - (e) Name of accredited optometry college attended;
 - (f) Location of accredited optometry college attended;
 - (g) Date of graduation from accredited optometry college;
 - (2) One of the following:
 - (a) Official documentation:
 - [1] From an accredited school or college of optometry of successful completion of the course of study for use of pharmaceutical agents for diagnostic purposes completed by the applicant which meets the requirements of 172 NAC 120-009.01A item 1; and
 - [2] Of passing the approved examination; or
 - [3] Of being credentialed in another U.S. jurisdiction at the highest level required to practice optometry in the U.S. jurisdiction where the applicant is currently credentialed; and
 - (3) The required certification fee.

120-009.01B The Department will:

- 1. Act within 150 days upon all completed applications for certification; and
- 2. Issue to each person who meets the requirements of 172 NAC 120-009.01A, a certificate to use pharmaceutical agents for diagnostic purposes.

120-009.02 Certification to Use Pharmaceutical Agents for Therapeutic Purposes

120-009.02A Applicants for certification to use pharmaceutical agents for therapeutic purposes must:

- 1. Have been certified by the Department upon the recommendation of the Board to use pharmaceutical agents for diagnostic purposes and meet the following criteria:
 - a. Satisfactorily complete the following educational requirements:
 - (1) Classroom didactic education concerning the use of pharmaceutical agents for therapeutic purposes provided by an accredited school or college of optometry; and

- (2) Clinical training as it applies to optometry with particular emphasis on the examination, diagnosis and treatment of the eye, ocular adnexa, and visual system provided by an accredited school or college of optometry that includes, but is not limited to, case histories, diagnosis, treatment and management regimens, special instrumentation and grand rounds; and
- b. Meet one of the following:
- (1) Pass an approved examination which covers the treatment and management of ocular disease administered by the National Board of Examiners in Optometry (NBEO) with a passing score; or
 - (2) Pass Part II of the examination administered by the NBEO after 1992 with a passing score; or
 - (3) Pass an examination that is approved by the Board as equivalent to the examination given by the NBEO; or
 - (4) Be credentialed in another U.S. jurisdiction at the highest level required for optometrist licensure in the U.S. jurisdiction where the applicant is currently licensed and such level is determined by the Board to be at least equivalent to the current scope of practice in Nebraska; and
- c. Submit to the Department:
- (1) A complete application on a form provided by the Department or on an alternate format. The application must include the following information:
 - (a) Name;
 - (b) Address, including city, state and zip code;
 - (c) Nebraska optometry license number;
 - (d) Name of accredited optometry college attended;
 - (e) Location of accredited optometry college attended;
 - (f) Date of graduation from accredited optometry college;
 - (g) Whether the applicant requested the entity that administered his/her examination to send his/her examination score in the treatment and management of ocular disease;
 - (h) Date the applicant sat for the examination;
 - (2) One of the following:
 - (a) Official documentation:

- [1] From an accredited school or college of optometry of successful completion of the didactic education and clinical training completed by the applicant; and
- [2] Of passing the approved examination; or
- [3] Of being credentialed in another U.S. jurisdiction at the highest level required to practice optometry in the U.S. jurisdiction where the applicant is currently credentialed; and

(3) The required certification fee.

120-009.02B The Department will:

- 1. Act within 150 days upon all completed applications for certification; and
- 2. Issue to each person who meets the requirements in 172 NAC 120-010.02A item 1, a certificate to use pharmaceutical agents for therapeutic purposes.

120-010 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession. Practice without a credential for the purpose of this regulation means practice:

- 1. Prior to the issuance of a credential;
- 2. Following the expiration of a credential; or
- 3. Prior to the reinstatement of a credential.

120-010.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

- 1. The person admits to engaging in practice;
- 2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
- 3. Billing or payment records document the provision of service, care, or treatment by the person;
- 4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
- 5. Appointment records indicate that the person was engaged in practice;
- 6. Government records indicate that the person was engaged in practice; and
- 7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

120-010.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

120-010.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

120-011 PRESCRIBING AND APPLICATION OF CONTACT LENSES: Pursuant to Neb. Rev. Stat. §§ 38-2601 and 38-2607, only optometrists and persons licensed to practice medicine and surgery are authorized to prescribe and apply (fit) contact lenses. Each contact lens prescription is valid for the duration of the prescription as indicated by the optometrist or physician or for a period of twelve months from the date of issuance, whichever period expires first. Merchants or dealers may sell contact lenses from a prescription but are not authorized to prescribe, apply or fit the lenses. The prescribing and application (fitting) of contact lenses includes, but is not limited to, the following:

1. Assessment of the eyes to assure their suitability for contact lens wear.
2. Evaluation and measurement of the physical characteristics of the eye and lid.
3. Selection, application, and assessment of diagnostic trial lenses.
4. Determination of a preliminary contact lens prescription including all the parameters needed to describe the lens so that it can be correctly provided to the patient and can be precisely duplicated in the future. These parameters can include lens material, power, base curve, overall diameter, color, manufacturer, series, optical zone, peripheral curve radii, widths and blends and edge treatment.
5. Patient instruction in care and usage of the lenses.
6. Monitoring of the patient during adaptation to contact lens wear.
7. Determination of the final contact lens prescription.

120-012 DISPENSING MEDICATED CONTACT LENSES

120-012.01 A prescription label is required. Prior to dispensing a contact lens containing a pharmaceutical agent, the optometrist must assure that a legible prescription label is affixed to the container. Such prescription label shall contain the following information:

1. Name, address, and telephone number of the doctor's office;
2. Serial number of the prescription;
3. Name of the pharmaceutical agent contained in the contact lens;
4. Strength of the pharmaceutical agent contained in the contact lens, if applicable;
5. Directions for use;
6. Quantity of contact lens containing a pharmaceutical agent in the container;
7. Any cautionary statements contained in the prescription;
8. Name of the patient;
9. Name of the prescriber; and
10. Dosage form of the pharmaceutical agent.

120-012.02 Storage

120-012.02A The optometrist shall provide equipment for the storage of contact lenses containing a pharmaceutical agent at the proper temperature.

1. Those requiring a freezer must be stored between -4 and +14 degrees Fahrenheit.
2. Those requiring refrigeration must be stored between 36 and 46 degrees Fahrenheit.
3. Those requiring storage in a cool place must be stored between 46 and 59 degrees Fahrenheit, or under refrigeration, between 36 and 46 degrees Fahrenheit, unless otherwise specified.
4. Those requiring storage at controlled room temperature must be stored between 59 and 86 degrees Fahrenheit.
5. Other labeled storage instruction for contact lenses containing a pharmaceutical agent must be followed.

120-012.02B Contact lenses containing a pharmaceutical agent stored in a refrigerator must be kept in a separate compartment from food.

120-012.02C The prescription inventory and prescription records must be maintained in a secure location when there is no optometrist on the premises. Loss of prescription inventory or prescription records due to theft or any other cause resulting from failure to secure the inventory or records are grounds for disciplinary action.

120-012.02D The optometrist must not have in his/her dispensable inventory any contact lenses containing a pharmaceutical agent which are misbranded or adulterated.

120-012.03 Recordkeeping

120-012.03A The prescribing optometrist shall choose and implement a systematic approach for Drug Utilization Review (DUR). The DUR is part of the optometrist's record keeping duties.

120-012.03B The prescribing optometrist shall make notation of the prescription for medicated contact lenses in the patient record which is a part of the optometrist's record keeping duties.

120-013.03C A prescription for medicated contact lenses shall contain the following information:

1. Patient's name;
2. Date of the order;
3. Name of the pharmaceutical agent contained in the contact lens;
4. Strength of the pharmaceutical agent contained in the contact lens, if applicable,
5. Directions for administration to the patient, including the dose to be given, and the number of authorized refills; and
6. Prescriber's name.

120-012.03D The dispensing optometrist's record keeping duties include a prescription file. The prescription file as defined in 120-002 shall contain the original record of all dispensed prescriptions which must:

1. Be filed, in numeric order, in a file system that excludes, as per statute, any prescription filled for Schedule II-V controlled substances or other prescription drug product that are not within Nebraska scope of practice to be dispensed in the optometrists office.
2. Include the following information:
 - a. All information required for prescriptions as set forth in 120-013.03C;
 - b. Prescription serial number;
 - c. Date of initial filling; and
 - d. Quantity dispensed;
3. Be maintained by the optometrist for five years from the date of dispensing.

120-012.04 The prescribing optometrist who also is dispensing the contact lens containing a pharmaceutical agent shall take steps to insure adequate doctor-patient consultation on drug utilization instructions related to medicated contact lenses. The optometrist shall make a verbal offer to counsel to the patient or to counsel the patient's caregiver.

120-012.05 Patient counseling shall occur, unless one of the following is documented:

1. The contact lens containing a pharmaceutical agent is being administered by a health care professional credentialed by the Department to a resident of a hospital or a long-term care facility;
2. Patient or caregiver refuses to be counseled; or

3. Optometrist, in his/her professional judgment, determines that counseling could harm or injure the patient.

120-013 DELEGATION TO OPTOMETRIC ASSISTANTS: Pursuant to Neb. Rev. Stat. §§ 38-2607 and 38-2618, any licensed optometrist may employ optometric assistants and may delegate the performance of certain duties to optometric assistants under supervision.

120-013.01 Definitions

Supervision means the supplying or providing of direction, control, instruction, and evaluation by the licensed optometrist, including personal review of the results of testing. Direct supervision is supervision which also requires the physical presence of the licensed optometrist.

120-013.02 Optometrist Responsibilities: A licensed optometrist who chooses to delegate duties to optometric assistants must:

1. Ensure that optometric assistants have received the appropriate level of training necessary to satisfactorily complete the delegated duties;
2. Conduct the qualitative assessment of the data collected by the optometric assistant and make any appropriate diagnosis;
3. Accept legal responsibility and liability for the accuracy of the results, as well as any consequences of the testing procedure; and
4. Authenticate and direct, by full signature, the entire examination and treatment provided to the patient.

120-013.03 Authorized Duties: Optometric assistants, under the supervision or direct supervision of a licensed optometrist, may perform the following duties:

120-013.03A Under Supervision:

1. Gather clinical information, which includes subjective and objective data (example – initial refraction and visual field testing); and
2. Provide educational information as instructed by the supervising optometrist.

120-013.03B Under Direct Supervision:

1. Perform Goldmann contact tonometry; and
2. Instill medication as instructed by the supervising optometrist.

Each optometric assistant involved in the data collection must sign the chart indicating their participation.

120-013.04 Prohibited Duties: A licensed optometrist may not delegate the following:

1. Ophthalmoscopy;
2. Gonioscopy;

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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 120

3. Biomicroscopy for the purpose of ocular health assessment;
4. Final refraction;
5. Final nervous system assessment;
6. Determination of any prescription, education or treatment plans;
7. Removal of superficial eyelid, conjunctival, and corneal foreign bodies; and
8. Ordering procedures and laboratory tests rational to the diagnosis of conditions or diseases of the human eye, ocular adnexa, or visual system.

120-014 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

2008

STATE OF NEBRASKA

Regulations Governing the Practice of

PHARMACY



N E B R A S K A

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Division of Public Health
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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE
CHAPTER 128 PRACTICE OF PHARMACY

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Copies of the attached Code of Ethics for Pharmacists are available at <http://www.aphanet.org/pharmcare/ethics.html> **NOTE:** This is same information that was copied from the website on 07/27/2005, which was filed with the Secretary of State on October 27, 2005.

EFFECTIVE DATE
November 1, 2005

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 128

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 128 PRACTICE OF PHARMACY

128-001 SCOPE AND AUTHORITY: These regulations govern the practice of pharmacy pursuant to the Uniform Controlled Substances Act, Neb. Rev. Stat. §§ 28-1437 to 28-1439.01; 71-1,142 to 71-1,151; 71-2401 to 71-2405; the Mail Service Pharmacy Licensure Act; the Nebraska Drug Product Selection Act; and the Uniform Licensing Law.

Any application required by 172 NAC 128 may be submitted on a form provided by the Department or in an alternate format.

128-002 DEFINITIONS: In addition to the definitions found in Neb. Rev. Stat. §§ 28-401 and 71-1,142, the following definitions apply to 172 NAC 128:

Accredited or approved program means a pharmacy program which maintains accreditation approved by the Accreditation Council for Pharmacy Education (ACPE) or other accrediting agencies and is approved by the Department upon recommendation of the Board.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Chart order means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to Neb. Rev. Stat. § 28-412. Chart order does not include a prescription.

D.E.A. means the Drug Enforcement Administration of the United States Department of Justice.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 128.

Pharmacist means any person who is licensed by the State of Nebraska to practice pharmacy.

Pharmacist Intern means a person who meets the requirements of Neb. Rev. Stat. § 71-1,144 and these regulations.

Pharmacy internship means a period of training, in the practice of pharmacy, of the pharmacist intern under the direction of a pharmacist or experiential training in an accredited pharmacy program approved by the Board of Pharmacy as a requirement for licensure to practice pharmacy in the State of Nebraska.

Practice agreement means a document signed by a pharmacist and a medical practitioner, wherein the pharmacist agrees to implement and monitor a therapeutic plan based on a written protocol.

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

Reciprocity means an applicant for pharmacist licensure who has requested to transfer the pharmacist's license through National Association of Boards of Pharmacy (NABP) Transfer of Pharmaceutic Licensure Program.

Score Transfer means an applicant for pharmacist licensure who has requested to participate in the score transfer program offered by the National Association of Boards of Pharmacy (NABP).

Supervision of a pharmacist intern means the presence of and the responsible and immediate personal guidance and direction by a pharmacist.

Written protocol means a written template, agreed to by a pharmacist and a medical practitioner, working in concert, which directs how the pharmacist will implement and monitor a therapeutic plan.

128-003 PHARMACIST LICENSURE REQUIREMENTS

128-003.01 An applicant for licensure as a pharmacist on the basis of examination or score transfer must:

1. Have graduated from an accredited pharmacy program;
2. Have satisfactorily completed not less than 1500 hours of pharmacy internship experience;
3. Pass the North American Pharmacist Licensure Examination (NAPLEX) given by NABP with a score of 75 or above;
4. Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) that relates to federal law and the Nebraska statutes and regulations that govern the practice of pharmacy given by NABP with a score of 75 or above;
5. Be of good moral character and have attained at least the age of 21; and

6. Submit to the Department:
 - a. An application for licensure as a pharmacist, that must include the following information:
 - (1) Legal name;
 - (2) Place and date of birth;
 - (3) Social Security Number;
 - (4) Mailing address;
 - (5) Telephone number (optional)
 - (6) E-mail address/fax number (optional)
 - (7) Permanent address;
 - (8) Name and location of accredited pharmacy program attended by the applicant;
 - (9) Date of graduation from accredited pharmacy program;
 - (10) Whether the applicant is applying by examination, by score transfer or by reciprocity;
 - (11) Answer the following questions either yes or no; if answered yes, explain the circumstances and the outcome:
 - (a) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Limited Restricted Revoked Suspended
 - (b) Has any licensing or disciplinary authority ever taken any of the following actions against your license?
Denied Limited Restricted Revoked Suspended
 - (c) Has any licensing or disciplinary authority placed your license on probation?
 - (d) Have you ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (e) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (f) Have you ever been requested to appear before any licensing agency?
 - (g) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (i) Have you ever been treated for alcohol or substance abuse?
 - (j) During the past ten years, have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (k) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?

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- (l) Have you ever been convicted of a felony?
 - (m) Have you ever been convicted of a misdemeanor?
 - (n) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (o) Have you ever been notified of any malpractice claim against you?
- (12) Have you ever been licensed as a pharmacist in another state/jurisdiction?
- (a) If yes, list all the states/jurisdiction where you have been or are currently licensed, including license number, issuance date and expiration date;
- (13) A statement from the applicant that s/he is of good moral character and that the statements on the application are true and complete.
- b. Official documentation of successful completion of a pharmacy degree program of an accredited pharmacy program;
 - c. Official documentation of passing the NAPLEX with a score of 75 or above, sent directly to the Department by NABP;
 - d. Official documentation of passing the MPJE for Nebraska with a score of 75 or above, sent directly to the Department by NABP;
 - e. Official documentation of satisfactory completion of not less than 1500 hours of pharmacy internship experience, sent directly to the Department from the accredited pharmacy program or another state Board of Pharmacy;
 - f. Certification of licensure (if applicable) which reflects the status of licensure, how license was obtained, date of issuance, expiration date; and any disciplinary information (if applicable), sent directly to the Department, from the state Board of Pharmacy;
 - g. The required licensure fee pursuant to 172 NAC 128-017; and
 - h. A copy of the applicant's birth certificate, marriage license, driver's license, or other valid verification of age.

128-003.02 An applicant for licensure as a pharmacist on the basis of reciprocity from another state/jurisdiction must:

1. Be duly licensed/registered by examination in another state in which, under like conditions, reciprocal licensure/registration as a pharmacist, without examination, is granted to pharmacists duly licensed by examination in Nebraska;
2. Have graduated from an accredited pharmacy program;
3. Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) that relates to federal law and the Nebraska statutes and regulations that govern the practice of pharmacy given by NABP with a score of 75 or above;
4. Be of good moral character and have attained at least the age of 21; and

5. Submit to the Department;
 - (a) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (13);
 - (b) Official documentation of successful completion of a pharmacy degree program of an accredited pharmacy program;
 - (c) Official documentation of passing the MPJE for Nebraska with a score of 75 or above, sent directly to the Department by NABP;
 - (d) Official Application for Transfer of Pharmaceutic Licensure issued by NABP;
 - (e) The required licensure fee pursuant to 172 NAC 128-017; and
 - (f) A copy of the applicant's birth certificate, marriage license, driver's license, or other valid verification of age.

128-003.03 A foreign trained applicant for licensure as a pharmacist on the basis of examination or score transfer must:

1. Have graduated from a foreign pharmacy program;
2. Have obtained the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification given by NABP;
3. Have satisfactorily completed not less the 1500 hours of pharmacy internship experience;
4. Pass the North American Pharmacist Licensure Examination (NAPLEX) given by NABP with a score of 75 or above;
5. Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) that relates to federal law and the Nebraska statutes and regulations that govern the practice of pharmacy given by NABP with a score of 75 or above;
6. Have good moral character and have attained at least the age of 21; and
7. Submit to the Department:
 - (a) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (13);
 - (b) Official translated documentation of successful completion of a pharmacy degree from a foreign pharmacy program;
 - (c) A copy of his/her certificate from the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification Program of NABP;
 - (d) Official documentation of passing the NAPLEX with a score of 75 or above, sent directly to the Department by NABP;
 - (e) Official documentation of passing the MPJE for Nebraska with a score of 75 or above, sent directly to the Department by NABP;
 - (f) Official documentation of satisfactory completion of not less than 1500 hours of pharmacy internship experience, sent directly to the Department from another state Board of Pharmacy;
 - (g) Certification of licensure (if applicable) which reflects the status of licensure, how license was obtained, date of issuance, expiration date; and any disciplinary information (if applicable), sent directly to the Department, from the state Board of Pharmacy;
 - (h) The required licensure fee pursuant to 172 NAC 128-017; and

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- (i) A copy of the applicant's birth certificate, marriage license, driver's license, or other valid verification of age.

128-003.04 A foreign trained applicant for licensure as a pharmacist on the basis of reciprocity from another state/jurisdiction must:

1. Be duly licensed/registered by examination in another state/jurisdiction in which, under like conditions, reciprocal licensure/registration as a pharmacist, without examination, is granted to pharmacists duly licensed by examination in Nebraska;
2. Have graduated from a foreign pharmacy program;
3. Have obtained the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification given by NABP;
4. Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) that relates to federal law and the Nebraska statutes and regulations that govern the practice of pharmacy given by NABP with a score of 75 or above;
5. Be of good moral character and have attained at least the age of 21; and
6. Submit to the Department;
 - (a) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (13);
 - (b) Official documentation of successful completion of a pharmacy degree from a foreign pharmacy program;
 - (c) A copy of his/her certificate from the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification Program of NABP;
 - (d) Official documentation of passing the MPJE for Nebraska with a score of 75 or above, sent directly to the Department by NABP;
 - (e) Official Application for Transfer of Pharmaceutical Licensure issued by NABP;
 - (f) The required licensure fee pursuant to 172 NAC 128-017; and
 - (g) A copy of the applicant's birth certificate, marriage license, driver's license, or other valid verification of age.

128-003.05 The Department will act within 150 days upon all completed applications for licensure.

128-003.06 A pharmacist may use the identifying terms or designations such as: pharmacist, registered pharmacist, R.P., R.Ph., pharmacist-in-charge, or licensed pharmacist that indicates a pharmacist with an active license to practice pharmacy in Nebraska.

128-003.07 No one, other than a duly licensed pharmacist, is allowed to use the following terms or designations or any other terms, designations, or letters implying licensure as a pharmacist in this state or in any other jurisdiction:

1. pharmacist,
2. registered pharmacist, R.P., or R.Ph.,
3. pharmacist-in-charge,

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4. licensed pharmacist, or
5. natural pharmacist, herbal pharmacist.

128-004 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses issued by the Department under the Act and 172 NAC 128 expire on January 1 of each even-numbered year.

128-004.01 Renewal process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements pursuant to 172 NAC 128-006;
2. Pay the renewal fee pursuant to 172 NAC 128-017;
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?

These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.

4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing 30 hours of continuing education earned within 24 months of the date of expiration or an application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of documentation requirement of Neb. Rev. Stat. § 71-110;
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

128-004.02 First Notice: At least 30 days before January 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the

responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

128-004.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee pursuant to 172 NAC 128-017;
6. The number of continuing education hours or type of continued competency required for renewal; and
7. The option to place the license on either inactive or lapsed status.

128-004.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing 30 hours of continuing education earned within 24 months of the date of expiration or an application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action since the last renewal (if applicable).

128-004.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her licensed be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

128-004.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

128-004.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to 172 NAC 128-004.01 that specify:

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1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 128-018 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency hours within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked pursuant to 172 NAC 128-005.

128-004.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - a. That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing 30 hours of continuing education earned within 24 months of the date of expiration or an application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action since the last renewal (if applicable).

128-004.03B If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

128-004.03C The Department will notify the licensee in writing of the acceptance or

denial of the request to allow the license to be placed on lapsed or inactive status.

128-004.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice of hearing and makes proper record of the revocation.

128-004.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

128-004.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 004.04 and 004.05 will not apply.

128-004.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

128-004.08 An individual who practices after the expiration of his/her credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 128-018, or such other action as provided in the statutes and regulations governing the credential.

128-005 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:
The Department will revoke a credential when the credential holder fails to meet the renewal requirements.

128-005.01 Revocation for Nonpayment of Renewal Fee or Late fee, or Failure to Submit Documentation of Continuing Competency within 30 Days of Expiration of the Credential.

128-005.01A When a credential holder fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

128-005.01A1 A post revocation notice will be sent which will specify that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential failed to renew the credential or to request that his/her credential be placed on inactive or lapsed status;

3. Department has revoked the credential; and
4. The credential holder has a right to request reinstatement of the credential.

128-005.02 Revocation for Failure to Meet Continuing Competency Requirements.

128-005.02A When a credential holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

128-005.02A1 The revocation notice for failure to meet continuing competency requirements specifies that:

1. The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive or lapsed status;
3. The credential has been revoked for failure to meet continuing competency requirements within 30 days after expiration of the credential and that the revocation will become final unless a request for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
4. The credential holder has a right to request reinstatement of the credential after revocation.-

128-006 CONTINUING COMPETENCY

128-006.01 General Requirements for Licensee: On or before January 1 of each even-numbered year, every Pharmacist who is licensed in the State of Nebraska must as a condition for renewal of his/her license:

128-006.01A Complete 30 hours of acceptable continued education during the preceding 24 month period, no more hours than the total number of acceptable hours offered in Nebraska will be required during this period.

128-006.01A1 The Board of Pharmacy has approved the following providers of continuing education:

1. The Accreditation Council for Pharmacy Education (ACPE);
2. The Nebraska Council on Continuing Pharmaceutical Education; or
3. Other providers demonstrating the same quality standards as those established in the Criteria for Quality of ACPE.

128-006.01B Be responsible for maintaining in his/her personal files certificates or records of credit from acceptable continuing education activities attended.

128-006.02 Wavier of Continuing Competency: The Department, on recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any two year license or for the period of time when a licensee submits documentation that circumstances beyond his/her control prevented the completion of such requirements.

128-006.02A Such circumstances will include situations in which the licensee:

1. Holds a Nebraska pharmacist license but has not practiced in Nebraska during the 24 months immediately preceding the license renewal date; or
2. Has been in the service of regular armed forces of the United States during any part of the 24 months immediately preceding the license renewal date; or
3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or
4. Has been first licensed in Nebraska within 24 months immediately preceding the renewal date.

128-006.02B Application for Wavier of Continuing Competency: Any licensee who seeks wavier of continuing competency requirements, in part or in total, for any two year licensing period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing competency requirements in part or in total for any two year period.

128-006.03 Audit of Continuing Competency: The Board may biennially select, in a random manner, a sample of the licensee renewal applications for audit of continuing competency. Licensees selected for audit are required to produce documentation of his/her continuing education activities listed on his/her renewal application.

128-006.03A The Department will send to each licensee selected for audit a notice of audit.

128-006.03B When selected for audit the licensee must provide satisfactory documentation of attendance at or participation in the acceptable continuing education activities listed on the licensees attestation of continuing competency of his/her renewal application.

128-006.03C Failure to comply with the audit may be grounds for non-renewal of the license.

128-007 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

128-007.01 The Department will deny an application for a license when the applicant fails to

meet the requirements for licensure pursuant to 172 NAC 128-003 or is found to be in violation of any of the provisions of 172 NAC 128.

128-007.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 128-004, 128-006.03C, or 128-007.03.

128-007.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license or certificate;
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program (LAP) established pursuant to Neb. Rev. Stat. § 71-172.01;
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, or licensee's fitness or capacity to practice the profession;
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means continued course of negligent conduct in performing the duties of the profession;
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license/certificate/registration/permit by a person not licensed/certified/registered/permitted to do so;
9. Having had his/her license, certificate, registration, or permit denied, refused renewal, limited, suspended, or revoked or having had such license, certificate, or registration disciplined in any other manner in accordance with Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, certificate holder, registrant, or permit holder similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, registration, or permit or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence;
10. Unprofessional conduct, which term includes all acts pursuant to Neb. Rev. Stat. § 71-148 and such other acts as may be defined in rules and regulations adopted and promulgated by the Board with the approval of the Department;
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's/certificate

- holder's/registrant's/permit holder's professional excellence or abilities, in advertisements;
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
 13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;
 14. Willful or repeated violations of the Uniform Licensing Law or these rules and regulations;
 15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee is not licensed or certified to practice;
 16. Practicing the profession of Pharmacy while his/her license is suspended or in contravention of any limitation placed upon his/her license;
 17. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or licensee unqualified to practice Pharmacy;
 18. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 thru 71-161.16 to determine his/her qualifications to practice or to continue in the practice of Pharmacy;
 19. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the Act; and
 20. Failure to file a report pursuant to Neb. Rev. Stat. § 71-168.

128-008 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

128-008.01 Eligibility

128-008.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

128-008.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

128-008.01C An individual who practices prior to re-credentialing, is subject to:

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1. Assessment of an Administrative Penalty pursuant to 172 NAC 128-018 , and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

128-008.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 128-003.

128-008.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 128-018;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

128-008.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

128-008.02C The Department will act within 150 days on all completed applications.

128-008.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 128-008.02A and 128-008.02B are final.

128-008.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - (a) The continuing competency requirements;
 - (b) Paying the renewal fee and any other applicable fees;

2. Attest:

- (a) That s/he has not practiced in Nebraska since s/he last held an active credential; or
- (b) To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

128-008.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:

- a. Name;
- b. Address;
- c. Social security number;
- d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential; and
- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;

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- (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Attestation that the continuing competency requirements for renewal have been met;
- 2. The renewal fee and any other applicable fees.
- 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

128-008.04A If an applicant has practiced while his/her credential was inactive, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 128-018;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to move the credential from inactive to active status; or
- 4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

128-008.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request to move the credential from inactive to active status; or
- 3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

128-008.04C In either event pursuant to 172 NAC 128-008.04A or 128-008.04B, a notice and the opportunity for hearing will be given to the applicant.

128-008.04D The Department will act within 150 days on all completed applications.

128-008.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

- 1. Meet the renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;

2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential, or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

128-008.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number;
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential; and
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period

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- since the credential was revoked;
- (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Attestation that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees.
3. Attestation by the applicant:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
- (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 128-018 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 128-008.06B below.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

128-008.06A The Board's recommendation to the Department may be to:

- 1. Reinstate the credential;
- 2. Reinstate the credential with terms, conditions or restrictions; or
- 3. Deny reinstatement.

128-008.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

- 1. Reinstate the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 128-018 if warranted;
- 2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the

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Department may:

- a. Reinstatement with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 128-018 if warranted; or
- b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

128-008.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement as prescribed in Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

128-008.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be

- reinstated;
- b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.

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- (6) Attestation that the continuing competency requirements for renewal have been met.
2. The renewal fee, the late fee of \$75 and any other applicable fees.
3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 128-018 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 128-008.08F below.

128-008.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

128-008.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

128-008.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

128-008.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board, if formally requested by the petitioner.

128-008.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

128-008.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

128-008.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement

and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

128-008.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

128-008.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

128-008.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

128-008.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

128-008.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

128-008.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;

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- a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;
 3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

128-008.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
- a. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number;
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential; and
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;

- [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner;
 - (6) Any continuing competency activities.
2. The reinstatement fee of \$75.
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 128-018 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations

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governing the credential, other action may be taken pursuant to 172 NAC 128-008.10G below.

128-008.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§ 71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

128-008.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

128-008.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

128-008.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

128-008.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

128-008.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

128-008.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

128-008.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail

at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

128-008.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

128-008.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or

capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

128-008.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second

hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

128-008.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

128-008.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time.

128-008.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. § 71-161.11 may be restored at the discretion of the Department.

128-008.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number;
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential; and
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or

misdemeanor, provide copies of:

- [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;

 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
- (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Any continuing competency activities.
- g. Attest:
- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

128-008.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 128-018;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

128-008.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

128-008.11A4 In either event pursuant to 172 NAC 128-008.11A2 or 128-008.11A3, a notice and the opportunity for hearing will be given to the applicant.

128-008.11A5 The Department will act within 150 days on all completed applications.

128-008.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time.

128-008.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

128-008.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 128-018.

128-008.13 Credentials Voluntarily Surrendered or Limited Permanently.

128-008.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

128-009 UNPROFESSIONAL CONDUCT: In addition to the unlawful or unprofessional acts listed in Neb. Rev. Stat. §§ 71-147 through 71-148, the following conduct will be considered unprofessional acts as defined by the Board per Neb. Rev. Stat. § 71-147(10):

1. Return of dispensed drugs or devices to saleable stock, unless specifically allowed by law;
2. Failure to conduct patient/client counseling, unless specifically exempt as provided in Neb. Rev. Stat. §71-1,147.35;
3. Claiming credit for any continuing education activities not actually participated in and earned;
4. Willfully or negligently violating the confidentiality between a pharmacist and a patient, except as allowed by law;
5. Any false or misleading statement on a pharmacy self inspection form;

6. Practicing pharmacy under a false or assumed name;
7. Except as otherwise permitted by law, dispensing, selling, administering, distributing, ordering, or giving to a person, known by the pharmacist to be an addict or any person previously drug dependent, any drug legally classified as a controlled substance;
8. Refusal to allow access to the records required to be kept pursuant to 175 NAC 8-006.03;
9. Refusal to cooperate or furnish evidentiary information, legally requested in writing, in an investigation by the Department or law enforcement of any alleged violation;
10. Violation of any provision(s) of the Pharmacy Practice Act, or the Uniform Controlled Substances Act, or the rules and regulations of the Department or of an action, stipulation, or agreement of the Board or Department;
11. Any violation of the federal Controlled Substances Act;
12. Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the pharmacist or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, drugs, devices, or biologicals;
13. Refusal to provide professional service to a person because of such person's race, creed, color, or national origin;
14. Dispensing, selling, or administering anabolic steroids to a person for other than therapeutic purposes;
15. Lack of or inappropriate direction, collaboration or direct supervision of any person employed by, supervised by or assigned to the pharmacist;
16. Any violation of the Medicare / Medicaid anti-kickback statute, 42 United States Code Chapter 7 Section 1320a-7b(b), which prohibits illegal remuneration, including but not limited to any kick-back or bribe;
17. Any violation of the federal Resource Conservation and Recovery Act;
18. Any violation of the federal Prescription Drug Marketing Act of 1987;
19. Any violation of the federal Poison Prevention Packaging Act of 1970;
20. Any violation of the Cancer Drug Repository Program Act;
21. Any departure from or failure to conform to the ethics of the pharmacy profession, which ethics were adopted by the membership of the American Pharmacists Association on October 27, 1994, and are attached to these regulations and incorporated by this reference;
22. Misrepresentation of material facts in applying for or procuring a renewal of a license/certification/registration/permit;
23. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer; or
24. The use of false or deceptive statements in any advertisement.

128-010 TEMPORARY EDUCATIONAL PERMIT

128-010.01 Permit Requirements: An applicant for a temporary educational permit must:

1. Have graduated from an accredited pharmacy program;
2. Be of good moral character and attained the age of 21;
3. Have been requested by an accredited hospital or clinic or an accredited pharmacy program in the State of Nebraska to serve as a graduate student in its approved program; and

4. Submit to the Department:
 - a. An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (8) and (11) through (13);
 - b. Name and location of the accredited hospital or clinic or the accredited pharmacy program where the applicant will be serving in a supervised educational program or the approved graduate pharmacy education program, which should include dates of service;
 - c. A signed statement from the applicant requesting that a temporary educational permit be issued and verifying that all information in the application is true and correct.
 - d. Official documentation that an accredited hospital or clinic or an accredited pharmacy program in the State of Nebraska has requested that the applicant will be serving as a graduate student in its approved program for a set period of time;
 - e. The required temporary educational permit fee pursuant to 172 NAC 128-017; and
 - f. A copy of a birth certificate, marriage license, driver's license, or other valid verification of age.

128-010.02 The Department will act within 150 days upon all completed applications for licensure.

128-010.03 Procedures for Renewal of Temporary Educational Permit: A temporary educational permit issued by the Department under the Act and these Regulations will expire one year from the date of issuance. The permit may be renewed for no more than five one-year periods.

128-010.03A Renewal Process: A temporary educational permit holder who wishes to renew his/her temporary educational permit must:

1. Provide documentation that s/he is currently enrolled in an supervised educational program or the approved graduate pharmacy education program;
2. Respond to the following questions:
 - a. Has your license/permit in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?

These questions relate to the time period since the last renewal of the permit or during the time period since the permit was issued.

3. Submit to the Department:
 - a. The renewal notice;

- b. Documentation that s/he is currently enrolled in a supervised educational program or the approved graduate pharmacy education program;
- c. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action including charges and disposition;
- d. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status; if the applicant is currently on probation.

128-010.03B First Notice: At least 30 days before the temporary educational permit is due to expire, the Department will send a renewal notice by means of regular mail to each temporary educational permit holder at his/her last place of residence as noted in the records of the Department. It is the responsibility of the temporary educational permit holder, prior to the renewal period, to notify the Department of any name and/or address changes.

128-010.03B1 The renewal notice will specify:

- 1. The name of the temporary educational permit holder;
- 2. The temporary educational permit holder's last known address of record;
- 3. The temporary educational permit number;
- 4. The expiration date of the temporary educational permit;
- 5. Answer the following questions either yes or no; if you answer yes, explain the circumstances and the outcome:
 - a. Have you ever been convicted of a misdemeanor or a felony?
 - b. Have you ever been denied a license or the right to take an examination?
 - c. Have a current license in another state or jurisdiction?
 - (1) List all the other states/jurisdictions where you have been licensed or are currently licensed, including license number and expiration date.

- d. Has your pharmacist license in any state or jurisdiction ever been suspended, revoked, or disciplined in any manner? (if applicable)
6. A signed statement from the applicant that he/she is renewing his/her temporary educational permit, is still in supervised educational program or the approved graduate pharmacy education program in the State of Nebraska, he/she is the person referred to in this renewal, and that the statements are true and complete.

128-010.02B2 The permit holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The permit holder's social security number;
3. Documentation that s/he is currently enrolled in a supervised educational program or the approved graduate pharmacy education program;
4. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

128-010.03C Second Notice: The Department must send to each temporary educational permit holder who fails to renew his/her temporary educational permit in response to the first notice, a second notice of renewal pursuant to 172 NAC 128-010.03B that specifies:

1. The temporary educational permit holder failed to renew his/her temporary educational permit;
2. The temporary educational permit has expired;
3. The Department will suspend action for 30 days following the date of expiration;
4. Upon receipt of the renewal notice and documentation of current enrollment, no order of revocation will be entered; and
5. Upon failure to receive the renewal notice and documentation of current enrollment the temporary educational permit will be revoked pursuant to 172 NAC 128-005.

128-010.03C1 The temporary educational permit holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The permit holder's social security number;
3. Documentation that s/he is currently enrolled in a supervised educational program or the approved graduate pharmacy education program;

4. Attestation by the licensee:
 - a. That s/he has not practiced in Nebraska since the expiration of his/her permit; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

128-010.03D When any permit holder fails, within 30 days of expiration of the permit, to submit documentation that s/he is currently enrolled in a supervised educational program or the approved graduate pharmacy education program, the Department will automatically revoke the permit without further notice of hearing and make proper record of the revocation.

128-010.03E The Department may refuse to renew a temporary educational permit for falsification of any information submitted for renewal of the permit. Such refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1.

128-011 PHARMACIST INTERN REQUIREMENTS

128-011.01 An applicant for registration as a pharmacist intern may apply at any time following enrollment in an accredited pharmacy program, or having graduated from a foreign pharmacy program, or if a pharmacy graduate, not licensed in Nebraska, application may be made at any time prior to licensure as a pharmacist in Nebraska.

128-011.02 An applicant for registration as a pharmacist intern on the basis of current enrollment in an accredited pharmacy program must:

1. Be currently enrolled in an accredited pharmacy program; and
2. Submit to the Department:
 - a. An application for registration as a pharmacist intern, that must include the following information:
 - (1) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (8) and (11) through (13);
 - (2) Official documentation of the month and year the applicant enrolled in the pharmacy program and the expected month and year of graduation;
 - (3) A statement that the applicant is aware that s/he must not practice as a pharmacist intern without the immediate personal supervision of a licensed pharmacist; and
 - (4) A signed statement from the applicant verifying that all information in the application is true and correct;

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- b. The required licensure fee pursuant to 172 NAC 128-017; and
- c. A copy of a birth certificate, marriage license, driver's license, or other valid verification of age.

128-011.03 An applicant for registration as a pharmacist intern on the basis of graduation from a foreign pharmacy program must:

- 1. Have graduated from a foreign pharmacy program;
- 2. Have obtained the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification given by NABP;
- 3. Submit to the Department:
 - a. An application for registration as a pharmacist intern, that must include the following information:
 - (1) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (8) and (11) through (13);
 - (2) Official documentation of successful completion of a pharmacy degree from a foreign pharmacy program;
 - (3) A copy of his/her certificate from the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification Program of NABP;
 - (4) A statement that the applicant is aware that s/he must not practice as a pharmacist intern without the supervision of a licensed pharmacist; and
 - (5) A signed statement from the applicant verifying that all information in the application is true and correct;
 - (6) The required licensure fee pursuant to 172 NAC 128-017; and
 - (7) A copy of a birth certificate, marriage license, driver's license, or other valid verification of age.

128-011.04 An applicant for registration as a pharmacist intern on the basis of graduation from an accredited pharmacy program must:

- 1. Have graduated from an accredited pharmacy program;
- 2. Submit to the Department:
 - a. An application for registration as a pharmacist intern, that must include the following information:
 - (1) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (8) and (11) through (13);
 - (2) Official documentation of the month and year the applicant graduated from the pharmacy program;
 - (3) A statement that the applicant is aware that s/he must not practice as a pharmacist intern without the supervision of a licensed pharmacist; and

- (4) A signed statement from the applicant verifying that all information in the application is true and correct;
- b. The required licensure fee pursuant to 172 NAC 128-017; and
- c. A copy of a birth certificate, marriage license, driver's license, or other valid verification of age.

128-011.05 The Department will act within 150 days upon all completed applications for licensure.

128-011.06 A pharmacist intern must notify the Department of any change in enrollment, address, or name.

128-011.07 A pharmacist intern registration based on enrollment in or graduation from an accredited pharmacy program expires not later than 15 months after the date of graduation or at the time of professional licensure, whichever comes first.

128-011.08 A pharmacist Intern registration based on graduation from a pharmacy program located outside of the United States which is not accredited expires not later than 15 months after the date of issuance of the registration or at the time of professional licensure, whichever comes first.

128-011.09 No person may function as a pharmacist intern until s/he receives a registration card from the Department. A pharmacist intern must have his/her registration card available at all times when functioning as an intern.

128-011.10 When a pharmacist intern desires to obtain credit for experience received in a state other than Nebraska, s/he must abide by all the provisions of the internship rules in that state, and must provide evidence of the number of pharmacy internship hours actually participated in by the pharmacist intern from:

- 1. The state Board of Pharmacy where the pharmacy internship hours were earned; or
- 2. The Nebraska-licensed pharmacist who supervised the training.

All pharmacy internship hours submitted to the Department must contain a notarized signature of the supervising Nebraska-licensed pharmacist or be certified by the state Board of Pharmacy.

128-011.11 The maximum number of hours which may be accepted from experiential training directed by an accredited pharmacy program are:

- 1. 640 hours, if the applicant for licensure as a pharmacist was awarded a Bachelor's degree in Pharmacy; or
- 2. 1500 hours, if the applicant for licensure as a pharmacist was awarded a Doctor of Pharmacy degree.

128-011.12 A pharmacist intern must be supervised at all times while performing the functions of a pharmacist intern, which may include all aspects of the practice of pharmacy, unless otherwise restricted. This supervision must be provided by a pharmacist who possesses a Nebraska pharmacist's license which is free from disciplinary measures at the time of supervision. This requirement for pharmacist supervision does not apply to pharmacist interns who are receiving experiential training directed by the accredited pharmacy program in which s/he is enrolled.

128-011.13 Registration as a pharmacist intern will remain in effect until the pharmacist intern gains licensure as a pharmacist, 15 months following graduation from an accredited pharmacy program, or dismissal or disenrollment from an accredited pharmacy program, whichever occurs first.

128-011.14 Each pharmacist intern must be identified as a pharmacist intern while performing the duties of an intern.

128-011.15 In the case of a pharmacist intern, the result of failure to comply with any of these standards may be loss of accumulated pharmacy internship hours and revocation of any license issued on the basis of such pharmacy internship.

128-011.16 A pharmacist intern must not supervise another pharmacist intern nor a pharmacy technician.

128-012 PHARMACIST INTERN & PHARMACY TECHNICIAN SUPERVISION REQUIREMENTS

128-012.01 A pharmacist may supervise pharmacist interns and pharmacy technicians in the following ratios:

1. A pharmacist may supervise up to two pharmacy technicians at any time, unless prohibited by a disciplinary action. (1:2)
2. A pharmacist may supervise up to three pharmacist interns at any time, unless prohibited by a disciplinary action. (1:3)
3. A pharmacist may supervise any combination of pharmacy technicians and pharmacist interns at any time up to a total of three people, as long as no more than two are pharmacy technicians. (1:3)
4. The supervision ratios of these regulations do not apply to pharmacist interns who are receiving experiential training directed by the accredited pharmacy program in which he or she is enrolled.
5. A pharmacy may apply to use more than two pharmacy technicians per pharmacist and the Board may approve such an application under the following guidelines:
 - a. The pharmacy is participating in a scientific study based upon improved patient care or enhanced pharmaceutical care,
 - b. The pharmacy has provided the Board with the following information regarding the patient care study:

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- (1) Duration of the study, not to exceed 12 months.
- (2) Duration may be extended twice in not greater than six month increments,
 - c. Goal of the study or the hypothesis being tested,
 - d. Names of the pharmacists participating in the study,
 - e. Expected date of completion of the study,
 - f. Expected date of study data to be forwarded to the Board, and
 - g. An affidavit that the pharmacy will provide all study data and results to the Board at the completion of the study report.
6. The Board may revoke permission to use more than two pharmacy technicians per pharmacist at any time when they have reason to believe that patient care is not being benefitted by the study.
7. The Board may grant permission to continue the practices used in the study for up to 24 months during the promulgation of rules and regulations.
8. Nothing in these regulations will be construed to require the Board to approve an increase in number of technicians per pharmacist for any study.

128-012.02 Nothing in these regulations will be construed to prohibit one pharmacist intern or one pharmacy technician from being supervised by more than one pharmacist at any time.

128-012.03 All persons functioning as pharmacy technicians must meet the requirements of Neb. Rev. Stat. § 71-1,147.33.

128-012.04 Each pharmacy technician must be identified as a pharmacy technician while performing the duties of a technician.

128-013 PHARMACEUTICAL CARE REQUIREMENTS

128-013.01 A pharmacist may enter into a practice agreement with a licensed medical practitioner to provide pharmaceutical care according to written protocols.

128-013.02 The pharmacist must assure that the Board is notified of any practice agreement. Such notice must be given to both the Board of Pharmacy and the medical practitioner's professional Board. Such notice must contain the names of the pharmacist(s) and the licensed medical practitioner(s) and a description of the therapy being monitored or initiated.

1. A copy of the practice agreement and written protocols must be available for review by any representative of the Department, and
2. A copy of the practice agreement or written protocols must be sent to the Board upon request from the Board.
3. Written notice must be given to the Board at initiation and at any time there is a change in parties or protocols.

128-013.03 Practice agreements and written protocols must be signed by the pharmacist and the medical practitioner and must be reviewed, signed, and dated every 12 months.

128-013.04 Practice agreements and written protocols will cease immediately upon:

1. The death of either the pharmacist or the licensed medical practitioner, or
2. Loss of license of either the pharmacist or the medical practitioner, or
3. Disciplinary action limiting the ability of either the pharmacist or the medical practitioner to enter into practice agreements, or
4. Individual decision or mutual agreement of the pharmacist(s) or medical practitioner(s) to end the agreement.

128-013.05 Nothing in these agreements will allow a pharmacist to practice beyond his/her scope of practice.

128-014 DISPENSING REQUIREMENTS

128-014.01 A prescription must contain the following information prior to being filled by the pharmacist:

1. Patient's name,
2. Name of the drug, device, or biological,
3. Strength of the drug or biological, if applicable,
4. Dosage form of the drug or biological, if applicable,
5. Quantity of drug, device, or biological prescribed,
 - a. The quantity for residents of long term care facilities must be 60 days, unless otherwise limited by the prescriber.
6. Directions for use,
7. Date of issuance,
8. Prescriber's name and the name of the supervising or collaborating physician, when applicable,
 - a. If the prescription is written, it must contain the prescriber's signature and the name of the prescriber stamped, typed, or clearly handwritten in addition to the signature.
9. Number of authorized refills, and
 - a. When the refill designation on the prescription is prn or Pro re nata, such designation, unless otherwise limited, means:
 - (1) If a prescription for a controlled substance in Schedules III-V, refill 5 times in the 6 months from the date of issuance, or
 - (2) If a prescription for a non-controlled drug, device or biological, refill for 12 months from the date of issuance.

- (3) Controlled Substances in Schedule II cannot be refilled and a refill designation on a prescription for a controlled substance in Schedule II has no meaning.
10. If the prescription is for a controlled substance, the following additional information is required to be on the prescription:
 - a. Patient's address,
 - b. Prescriber's address, and
 - c. Prescriber's D.E.A. registration number.

128-014.02 A Chart Order Must Contain the Following Information:

1. Patient's name,
2. Date of the order,
3. Name of the drug, device, or biological,
4. Strength of the drug or biological, if applicable,
5. Directions for administration to the patient, including the dose to be given, and
6. Prescriber's name.

128-014.03 Prescription Label: Prior to dispensing a drug, device or biological, the pharmacist assure that a legible prescription label is affixed to the container. Such prescription label must contain the following information:

1. Name, address, and telephone number of the dispensing pharmacy and the central filling pharmacy, if central fill is used,
2. Serial number of the prescription,
3. Name of the drug, device, or biological, unless instructed to omit by the prescriber,
4. Strength of the drug or biological, if applicable,
5. Directions for use,
6. Quantity of drug, device, or biological in the container; except for unit-dose containers,
7. Any cautionary statements contained in the prescription,
8. Name of the patient or if the patient is non-human, the name of the owner and species of the animal,
9. Name of the prescriber,
 - a. If prescribed by a physician assistant, both the name of the physician assistant and the name of the supervising physician must appear on the label. (Neb. Rev. Stat § 71-1,107.30)
10. Dosage form of the drug or biological if applicable, and
11. Date of filling.

128-014.04 Prescription Labels for Multi-Drug Containers: A pharmacist may dispense more than one drug or biological in the same container only when:

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1. Such container is prepackaged by the manufacturer, packager, or distributor and shipped directly to the pharmacy in this manner; or
2. Each drug or biological product is individually wrapped or hermetically sealed by either the pharmacist, manufacturer, packager, or distributor; or
3. The container does not accommodate greater than a one month supply of compatible dosage units and is labeled so as to identify each drug or biological in the container in addition to all information pursuant to 172 NAC 128-014.03.

128-014.05 Prescriber's Employee or Agent: A prescription, chart order, or refill authorization issued by a prescriber may be communicated to a pharmacist or a pharmacist intern by an employee or agent of the prescriber.

128-015 PATIENT COUNSELING

128-015.01 Only a pharmacist or a pharmacist intern can provide patient counseling, except as provided in Neb. Rev. Stat. § 71-1,147.53.

128-015.02 A verbal offer to counsel must be provided to the:

1. Patient, or
2. Patient's caregiver.

128-015.03 Patient counseling must occur, unless one of the following is documented:

1. Drug, device, or biological is being administered by a health care professional credentialed by the Department to a resident of a hospital or a long-term care facility,
2. Patient or caregiver refuses to be counseled,
3. Pharmacist, in his/her professional judgement, determines that counseling could harm or injure the patient, or
4. Prescriber designates "contact before counseling" or words of similar import on the prescription. In this instance, the pharmacist must contact the prescriber prior to counseling and may use his/her professional judgement regarding counseling following consultation with the prescriber.

128-015.04 Whenever a pharmacist receives a prescription for a brand name product and chooses to dispense a bioequivalent drug, device or biological, the pharmacist must advise the patient or the patient's caregiver that drug product selection has occurred. The patient or the patient's caregiver may instruct the pharmacist that s/he does not desire drug product selection.

128-016 MAIL SERVICE PHARMACY LICENSE REQUIREMENTS: Any person operating a mail service pharmacy outside of the State of Nebraska must obtain a mail service pharmacy license prior to shipping, mailing, or in any manner delivering dispensed prescription drugs as defined in Neb. Rev. Stat. § 71-1,142 into the State of Nebraska.

128-016.01 In order for the Board to determine that the requirements and qualifications are

substantially equivalent between Nebraska and the state, jurisdiction or territory where the pharmacy is located, and to assure that the Nebraska Secretary of State is designated the Agent of Service of Process in all matters regarding the Mail Service Pharmacy Licensure Act,

the applicant for a Mail Service Pharmacy License must submit the following information and the required fee pursuant to 172 NAC 128-017:

1. Pharmacy name,
2. Pharmacy street address,
3. Pharmacy telephone number,
4. Pharmacy permit or license number and state of issuance,
5. Expiration date of pharmacy permit or license number,
6. Name of a pharmacist, employed by and working in the pharmacy, who has an active Nebraska pharmacist's license,
7. License number of a pharmacist, employed by and working in the pharmacy, who has an active Nebraska pharmacist's license,
8. Expiration date of the Nebraska pharmacist's license,
9. Name of the pharmacist-in-charge,
10. Mailing address of the pharmacist-in-charge,
11. License number of the pharmacist-in-charge and state of issuance,
12. Expiration date of the license of the pharmacist-in-charge,
13. A copy of the most recent state pharmacy inspection from the state in which the pharmacy is located,
14. Acknowledgment whether or not the pharmacy is a Verified Internet Pharmacy Practice Site (V.I.P.P.S.) pharmacy as certified by N.A.B.P., if applicable,
15. A declaration that the Nebraska Secretary of State has been designated the Agent of Service of Process in all matters regarding the Mail Service Pharmacy Licensure Act, and
16. A statement concerning licensure of the pharmacist-in-charge and the permit of the pharmacy in another State, including any history of disciplinary action on a professional credential or pharmacy permit, sent directly to the Department from the State Board or agency that issued the license or permit,
17. An attestation from the applicant verifying that all information in the application is correct.

128-016.02 Renewal Licenses

128-016.02A Department Responsibilities: The Department will:

1. Send a notice of expiration and an application for renewal to the applicant's preferred mailing address no later than 30 days prior to the expiration date. The license renewal notice specifies:
 - a. Date of expiration;
 - b. Fee for renewal;
 - c. License number;
 - d. Name and address of the pharmacy;

- e. Name and license number of the designated Nebraska licensed pharmacist who is responsible for compliance with the Nebraska Mail Service Pharmacy Licensure Act;
 - f. A request for a current copy of the pharmacy credential issued by the State/Jurisdiction/Territory in which pharmacy is located; and
 - g. A request for documentation pertaining to past disciplinary actions against the pharmacy credential.
2. Issue a renewal when it determines that the applicant has submitted a completed application;
 3. Send to each licensee that fails to renew its license a second notice, which is the final notice and specifies that:
 - a. The licensee failed to pay the renewal fee or submit an application or both;
 - b. The license has expired;
 - c. The Department will suspend action for 30 days following the date of expiration;
 - d. Upon receipt of the renewal fee and completed renewal application, the Department will issue the renewal license; and
 - e. That upon failure to receive the renewal fee and completed renewal application, the license will be lapsed.
 4. Place the mail service pharmacy license on lapsed status for nonpayment of fees if the licensee fails to renew the license. During this time, the mail service pharmacy may not ship, mail, or in any manner deliver dispensed prescription drugs into the State of Nebraska. The license remains in lapsed status until it is reinstated.

128-016.02B Licensee Responsibilities: The licensee must submit:

1. The application for renewal;
2. A current copy of the pharmacy credential issued by the State/Jurisdiction/Territory the pharmacy is located in
3. The name of the pharmacist-in-charge;
4. The name and license number of the Nebraska licensed pharmacist who is responsible for compliance with the Nebraska Mail Service Pharmacy Licensure Act;
5. Documentation pertaining past disciplinary action against pharmacy (if applicable); and
6. The required renewal fee pursuant to 172 NAC 128-017.17.

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128-016.02C Refusal to Renew: The Department may refuse renewal of a mail service pharmacy license that fails to meet the requirements for renewal, including:

1. Violation of any of the provisions of the Mail Service Pharmacy Licensure Act, or 172 NAC 128-016.

128-016.03 Reinstatement from Lapsed Status: A pharmacy requesting reinstatement of its lapsed license must submit to the Department an application for reinstatement and pay the required license fee pursuant to 172 NAC 128-017.17. The application must conform to the requirements pursuant to 172 NAC 128-016.01.

128-016.03A Refusal to Reinstate: The Department may refuse reinstatement of a pharmacy license that fails to meet the requirements for reinstatement, including:

1. Violations of any of the provisions of the Mail Service Pharmacy Licensure Act, 172 NAC 128-016.

128-017 SCHEDULE OF FEES: The following fees have been set by the Department:

128-017.01 Initial License by Examination or Score Transfer Fee: By an applicant for a license to practice pharmacy, the fee of \$75 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

128-017.02 Proration of Initial License by Examination or Score Transfer Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.

128-017.03 Initial License by Reciprocity Fee: By an applicant for a license to practice pharmacy, the fee of \$75 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

128-017.04 Proration of Initial License by Reciprocity Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.

128-017.05 Pharmacist License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice pharmacy, the fee of \$75 and the Licensee Assistance Program fee of \$2.

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128-017.06 Inactive License Status Fee: By an applicant to have his/her credential placed on inactive status, the fee of \$25.

128-017.07 Renewal Late Fee: By an applicant for renewal on a biennial basis of credential, who fails to pay the renewal fee on or before the expiration date of his/her credential, the fee of \$25 in addition to the renewal fee.

128-017.08 Certification of License Fee: For issuance of a certification of a credential, the fee of \$25. The certification includes information regarding:

1. The basis on which a credential was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the credential; and
4. The current status of the credential.

128-017.09 Verification of License Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.

128-017.10 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

128-017.11 Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the credentialing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

128-017.12 Reinstatement Late Fee: For reinstatement of a credential for failure to meet renewal requirements:

1. Within one year of revocation, the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

128-017.13 Reinstatement Fee: For reinstatement of a pharmacist credential following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

128-017.14 Fee for Temporary Educational Permit: By a recipient of a temporary educational permit, the annual fee of \$50.

128-017.15 Fee for Pharmacist Intern Registration: For each registration as a pharmacist intern, the fee of \$50.

128-017.16 Initial License Fee for a Mail Service Pharmacy: For each license for a mail service pharmacy, the fee of \$255.

128-017.17 Mail Service Pharmacy License Renewal Fee: By an applicant for a renewal on an annual basis of a mail service pharmacy license, the fee of \$255.00.

128-017.18 Initial Registration Fee for Pharmacy Technician: By an applicant for a registration as a pharmacy technician, the fee of \$25 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

128-017.19 Proration of Initial Registration Fee for Pharmacy Technician: For issuance of a registration that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.

128-017.20 Pharmacy Technician Registration Renewal Fee: By an applicant for renewal on a biennial basis of a registration as a pharmacy technician, the fee of \$25 and the Licensee Assistance Program fee of \$2.

128-018 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

128-018.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

128-018.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;

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- c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

128-018.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

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Code of Ethics for Pharmacists

PREAMBLE

Pharmacists are health professionals who assist individuals in making the best use of medications. This Code, prepared and supported by pharmacists, is intended to state publicly the principles that form the fundamental basis of the roles and responsibilities of pharmacists. These principles, based on moral obligations and virtues, are established to guide pharmacists in relationships with patients, health professionals, and society.

I. A pharmacist respects the covenantal relationship between the patient and pharmacist.

Considering the patient-pharmacist relationship as a covenant means that a pharmacist has moral obligations in response to the gift of trust received from society. In return for this gift, a pharmacist promises to help individuals achieve optimum benefit from their medications, to be committed to their welfare, and to maintain their trust.

II. A pharmacist promotes the good of every patient in a caring, compassionate, and confidential manner.

A pharmacist places concern for the well-being of the patient at the center of professional practice. In doing so, a pharmacist considers needs stated by the patient as well as those defined by health science. A pharmacist is dedicated to protecting the dignity of the patient. With a caring attitude and a compassionate spirit, a pharmacist focuses on serving the patient in a private and confidential manner.

III. A pharmacist respects the autonomy and dignity of each patient.

A pharmacist promotes the right of self-determination and recognizes individual self-worth by encouraging patients to participate in decisions about their health. A pharmacist communicates with patients in terms that are understandable. In all cases, a pharmacist respects personal and cultural differences among patients.

IV. A pharmacist acts with honesty and integrity in professional relationships.

A pharmacist has a duty to tell the truth and to act with conviction of conscience. A pharmacist avoids discriminatory practices, behavior or work conditions that impair professional judgment, and actions that compromise dedication to the best interests of patients.

V. A pharmacist maintains professional competence.

A pharmacist has a duty to maintain knowledge and abilities as new medications, devices, and technologies become available and as health information advances.

VI. A pharmacist respects the values and abilities of colleagues and other health professionals.

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When appropriate, a pharmacist asks for the consultation of colleagues or other health professionals or refers the patient. A pharmacist acknowledges that colleagues and other health professionals may differ in the beliefs and values they apply to the care of the patient.

VII. A pharmacist serves individual, community, and societal needs.

The primary obligation of a pharmacist is to individual patients. However, the obligations of a pharmacist may at times extend beyond the individual to the community and society. In these situations, the pharmacist recognizes the responsibilities that accompany these obligations and acts accordingly.

VIII. A pharmacist seeks justice in the distribution of health resources.

When health resources are allocated, a pharmacist is fair and equitable, balancing the needs of patients and society.

* adopted by the membership of the American Pharmacists Association October 27, 1994.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 131 WHOLESALE DRUG DISTRIBUTORS

131-001 SCOPE AND AUTHORITY: These regulations apply to licensure of wholesale drug distributors pursuant to Neb. Rev. Stat. §§ 71-7427 to 71-7463 which is cited as the Wholesale Drug Distributor Licensing Act.

131-002 DEFINITIONS

Act means the Wholesale Drug Distributor Licensing Act.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Authenticate means to affirmatively verify that each transaction listed on the pedigree and any other accompanying documentation has occurred, in accordance with 172 NAC 131.

Blood means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

Blood component means that part of blood separated by physical or mechanical means.

Board means the Board of Pharmacy.

Bond means a "surety" bond of not less than \$100,000, or other equivalent means of security acceptable to the Department, including insurance, an irrevocable letter of credit, or funds deposited in a trust account or financial institution, to secure payment of any administrative penalties imposed by the Department and any fees or costs incurred by the Department regarding that licensee when those penalties, fees, or costs are authorized under state law and the licensee fails to pay 30 days after the penalty, fee, or costs becomes final. A separate surety bond or other equivalent means of security is not required for each company's separate locations or for affiliated companies/groups when such separate locations or affiliated companies/groups are required to apply for or renew their wholesale drug distributor license with the Department. The Department may make a claim against such bond or other equivalent means of security until one year after the expiration of the wholesale drug distributor's license.

Chain pharmacy warehouse means a facility utilized as a central warehouse for intracompany sales or transfers of prescription drugs or devices by two or more pharmacies operating under common ownership or common control.

Co-licensed products means prescription drugs that have been approved by the federal Food and Drug Administration (FDA) and are the subject of an arrangement by which two or more parties have the right to engage in a business activity or occupation concerning such drugs.

Co-licensee means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug.

Common carrier means an entity that provides transportation or delivery of prescription drugs without storing, warehousing, or taking legal ownership of such drugs.

Common control means that the power to direct or cause the direction of the management and policies of a person or an organization by ownership of stock or voting rights, by contract, or otherwise is held by the same person or persons.

Department means the Division of Public Health of the Department of Health and Human Services.

Designated representative means an individual designated by the wholesale drug distributor who will serve as the responsible individual of the wholesale drug distributor who is actively involved in and aware of the actual daily operation of the wholesale drug distributor.

Director means the Director of Public Health of the Division of Public Health or the Chief Medical Officer if one has been appointed.

Drop shipment means the sale, by a manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor of the manufacturer's prescription drug, to a wholesale drug distributor whereby the wholesale drug distributor takes title to but not possession of such prescription drug and the wholesale drug distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated persons authorized by law to dispense, administer or distribute such drug and the pharmacy, chain pharmacy warehouse, or other designated persons authorized by law to dispense, administer or distribute such drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipments must be part of the "normal distribution chain".

Drug Sample means a unit of a prescription drug intended to promote the sale of the drug and not intended to be sold.

Emergency Medical Reasons means the alleviation of a temporary shortage by transfers of prescription drugs between any of the following: (1) Holders of pharmacy licenses, (2) health care practitioner facilities as defined in section 71-414, (3) hospitals as defined in section 71-419, and (4) practitioners as defined in section 71-1,142. Emergency medical reasons also means a natural disaster or other situations of local, state or national emergency.

Exclusive distributor means an entity that:

1. Contracts with a manufacturer to provide or coordinate warehousing, wholesale drug distribution, or other services on behalf of a manufacturer and who takes title to that

- manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; and
2. Is licensed as a wholesale drug distributor under 172 NAC 131.

Facility means a physical structure utilized by a wholesale drug distributor for the storage, handling, or repackaging of prescription drugs or the offering of prescription drugs for sale.

FDA means the federal Food and Drug Administration.

Licensee means wholesale drug distributor as defined in 172 NAC 131-002.

Manufacturer means any entity engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repacking, or labeling a prescription drug.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 131.

Nationally recognized accreditation program means an accreditation program that conforms to the standards required for accreditation by the Verified-Accredited Wholesale Distributors (VAWD) program, established and operated by the National Association of Boards of Pharmacy (NABP), and is approved by the Board.

Normal distribution chain means the transfer of a prescription drug or the co-licensed product of the original manufacturer of the finished form of a prescription drug along a chain of custody directly from the manufacturer or co-licensee of such drug to a patient or ultimate consumer of such drug. Normal distribution chain includes reverse distribution and transfers of a prescription drug or co-licensed product:

1. From a manufacturer or co-licensee to a wholesale drug distributor, to a pharmacy, and then to a patient or a patient's agent;
2. From a manufacturer or co-licensee to a wholesale drug distributor, to a pharmacy, to a health care practitioner, health care practitioner facility, or hospital, and then to a patient or a patient's agent;
3. From a manufacturer or co-licensee to a wholesale drug distributor, to a chain pharmacy warehouse, to a pharmacy affiliated with the chain pharmacy warehouse, and then to a patient or a patient's agent;
4. From a manufacturer or co-licensee to a chain pharmacy warehouse, to a pharmacy affiliated with the chain pharmacy warehouse, and then to a patient or a patient's agent;
5. From a manufacturer or co-licensee to a wholesale drug distributor, to a pharmacy buying cooperative warehouse, to a pharmacy that is a member or member owner of such pharmacy buying cooperative warehouse, and then to a patient or a patient's agent;

6. From a manufacturer or co-licensee to a pharmacy buying cooperative warehouse, to a pharmacy that is a member or member owner of such pharmacy buying cooperative warehouse, and then to a patient or a patient's agent;
7. From a manufacturer or co-licensee, to a third party logistics provider or an exclusive distributor, to a wholesale drug distributor, to a pharmacy, and then to a patient or a patient's agent;
8. From a manufacturer or co-licensee to a third party logistics provider or an exclusive distributor, to a wholesale drug distributor, to a pharmacy, to a health care practitioner, health care practitioner facility, or hospital, and then to a patient or a patient's agent;
9. From a manufacturer or co-licensee to a third party logistics provider or an exclusive distributor, to a pharmacy, to a health care practitioner, health care practitioner facility, or hospital, and then to a patient or a patient's agent;
10. From a manufacturer or co-licensee to a third party logistics provider or an exclusive distributor, to a wholesale drug distributor, to a chain pharmacy warehouse, to a pharmacy affiliated with the chain pharmacy warehouse, and then to a patient or a patient's agent;
11. From a manufacturer or co-licensee to a third party logistics provider or an exclusive distributor, to a chain pharmacy warehouse, to a pharmacy affiliated with the chain pharmacy warehouse, and then to a patient or a patient's agent; or
12. From a manufacturer or co-licensee either through drop shipment or directly to a pharmacy, health care practitioner, health care practitioner facility, hospital, chain pharmacy warehouse, or other designated persons authorized by law to dispense, administer or distribute such drug, and then to a patient or a patient's agent.

Owner or ownership means a person who has control over the operations of an entity pursuant to 172 NAC 131-002.

Pedigree means a written or electronic documentation of every transfer of a prescription drug as provided in Neb. Rev. Stat. §§71-7455 and 71-7456.

Pharmacy Buying Cooperative Warehouse means a permanent physical location that acts as a central warehouse for prescription drugs and from which sales of such drugs are made to an exclusive group of pharmacies that are members or member owners of the buying cooperative operating the warehouse and shall be licensed as a wholesaler.

Prescription drug means any human drug required by federal law or regulation to be dispensed only by prescription, including finished dosage forms and active ingredients subject to section 503 (b) of the Federal Food, Drug, and Cosmetic Act, as such section existed on August 1, 2006.

Repackage means repackaging or otherwise changing the container, wrapper, or labeling of a prescription drug to facilitate the wholesale distribution of such drug.

Repackager means a person who repackages.

Reverse distributor means a person whose primary function is to act as an agent for a pharmacy, wholesaler, manufacturer, or other entity by receiving, inventorying, and managing the disposition of outdated, expired, or otherwise non-saleable medications.

Third party logistics provider means an entity that:

1. Provides or coordinates warehousing, drug distribution, or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition; and
2. Is licensed as a wholesale drug distributor under 172 NAC 131.

Wholesale drug distribution means distribution of prescription drugs to a person other than a consumer or patient. Wholesale drug distribution does not include:

1. Intracompany sales of prescription drugs, including any transaction or transfer between any division, subsidiary, or parent company and an affiliated or related company under common ownership or common control;
2. The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code, a state, a political subdivision, or any other governmental agency to a nonprofit affiliate of the organization, to the extent otherwise permitted by law;
3. The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities operating under common ownership or common control;
4. The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons;
5. The sale, purchase, or trade of, an offer to sell, purchase, or trade, or the dispensing of a prescription drug pursuant to a prescription;
6. The distribution of drug samples by representatives of a manufacturer or of a wholesale drug distributor;
7. The sale, purchase, or trade of blood and blood components intended for transfusion;
8. The delivery of or the offer to deliver a prescription drug by a common carrier solely in the usual course of business of transporting such drugs as a common carrier if the common carrier does not store, warehouse, or take legal ownership of such drugs; or
9. The sale, transfer, merger, or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with these regulations.

Wholesale drug distributor means any person or entity engaged in wholesale drug distribution in this state, including manufacturers, repackagers, own-label distributors, jobbers, private-label distributors, brokers, warehouses including manufacturer and distributor warehouses, chain pharmacy warehouses, and wholesale drug warehouses, wholesale medical gas distributors, independent wholesale drug traders, and retail pharmacies that engage in wholesale drug distribution in this state. Wholesale drug distributor also includes reverse distributors. Wholesale drug distributor does not include a common carrier or other person or entity hired solely to transport prescription drugs if the common carrier, person, or entity does not store, warehouse, or take legal ownership of such drugs.

Wholesale medical gas distributor means any person engaged in the wholesale drug distribution of medical gases provided to suppliers or other entities licensed or otherwise authorized to use, administer, or distribute such gases.

131-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person, partnership, corporation, or business firm, or other entity that engages in wholesale drug distribution pursuant to Neb. Rev. Stat. § 71-7447 of the Act and 172 NAC 131-002 must obtain a wholesale drug distributor license from the Department. A separate license must be obtained for each facility engaged in wholesale drug distribution. The criteria for issuance of a license and the documentation required by the Department are set forth below.

131-003.01 Requirements for Issuance of a Wholesale Drug Distributor License

131-003.01A The Department, upon the recommendation of the Board, will issue a wholesale drug distributor license to an applicant who:

1. Makes application to the Department for a wholesale drug distributor license; and
2. Passes an inspection conducted pursuant to 172 NAC 131-005. Inspections will be accepted by the Department if they have been conducted within the six months preceding the date of application or if accreditation status by either a nationally recognized accreditation program or another state or federal regulatory agency inspection approved by the Board remains current.

131-003.02 Procedures for Issuance of a Wholesale Drug Distributor License

131-003.02A An applicant for a wholesale drug distributor license must:

1. Submit an application for a wholesale drug distributor license on a form provided by the Department or on an alternate format. Only applications that are complete will be considered. The application must be completed by the designated representative and must include the following information, except that for wholesale medical gas distributors, 172 NAC 131-003.02A items 1.a. through 1.h. are required; and for manufacturers of FDA-approved drugs, the application may be completed by a corporate officer or other designated managerial employee, only 172 NAC 131-003.02A items 1.a. through 1.h. and 6 are required, and inspection, bonding and

appointment of a designated representative are not a condition of licensure:

- a. Applicant's name;
- b. Business address;
- c. Telephone number;
- d. Type of business entity:
 - (1) If the applicant is a partnership:
 - (a) the name of each partner; and
 - (b) the name of the partnership;
 - (2) If the applicant is a corporation:
 - (a) the name of each corporate officer and director;
 - (b) the title of each corporate officer and director;
 - (c) all corporate names of the applicant; and
 - (d) the applicant's state of incorporation;
 - (3) If the applicant is a sole proprietorship:
 - (a) the name of the sole proprietor;
 - (b) the name of the proprietorship; and
 - (c) Social Security Number of the sole proprietor;
- e. All trade or business names used by the applicant;
- f. Addresses of all facilities used by the applicant for the storage, handling, and wholesale distribution of prescription drugs;
- g. Telephone numbers of all facilities used by the applicant for the storage, handling, and wholesale distribution of prescription drugs;
- h. Name(s) of the person(s) in charge of such facilities;
- i. List of all licenses, permits, or other similar documentation issued to the applicant in any other state authorizing the applicant to purchase or possess prescription drugs;
- j. Name(s) and address(es) of the following:
 - (1) Owner(s);
 - (2) Manager(s);
 - (3) Designated representative;
- k. Name(s) of all managerial employees for the facility;
- l. Entity conducting the initial inspection:
 - (1) Department;
 - (2) Nationally recognized accreditation program;
 - (3) Another state regulatory agency; or
 - (4) A federal regulatory agency;
- m. Signature of the designated representative, attesting that s/he has completed the application; and
- n. Required signature(s)
 - (1) If applicant is an individual or partnership, signature of owner;
 - (2) If applicant is a limited liability company with two members or less, signature of one member;

- (3) If applicant is a limited liability company with more than two members, signature of two or more members;
 - (4) If the applicant is a corporation, signature of two officers.
2. Obtain a criminal background check pursuant to 172 NAC 131-004 for the following personnel:
 - a. The designated representative;
 - b. The supervisor of the designated representative; and
 - c. If the company is non-publicly held, each owner with greater than ten percent interest in the wholesale drug distributor;
3. Provide the following information regarding the designated representative:
 - a. Place of residence for the immediately preceding seven years;
 - b. Date of birth;
 - c. Place of birth;
 - d. List of all occupations, positions of employment, and offices held during the immediately preceding seven years;
 - e. The principal businesses, including addresses of any business, corporation, or other organization in which such occupations, positions, or offices were held;
 - f. Whether s/he has been, at any time during the immediately preceding seven years, the subject of any proceeding for the revocation of any license, and if so, the nature of the proceeding and its disposition;
 - g. Whether s/he has been, at any time during the immediately preceding seven years, either temporarily or permanently enjoined by a court of competent jurisdiction from violations of any federal or state law regulating the possession, control, or distribution of prescription drugs, and, if so, the details of such order;
 - h. A description of any involvement by the designated representative during the immediately preceding seven years, other than the ownership of stock in a publicly traded company or mutual fund, with any business which manufactured, administered, distributed, or stored prescription drugs and any lawsuits in which such businesses were named as a party;
 - i. Whether s/he has ever been convicted of any felony and details relating to such conviction; and
 - j. A photograph of the designated representative taken within the immediately preceding 30 days.
4. Provide proof of a bond;
5. Submit documentation of passing an initial inspection pursuant to 172 NAC 131-005.01; and
6. Submit the required fee pursuant to 172 NAC 131-012.

131-003.02B The Department will act within 150 days of receipt of a completed application.

131-004 CRIMINAL BACKGROUND CHECKS: The following individuals are subject to a criminal background check:

1. The designated representative of a wholesale drug distributor;
2. The supervisor of the designated representative of a wholesale drug distributor; and
3. Each owner with greater than a ten percent interest in the wholesale drug distributor, if the wholesale drug distributor is a non-publicly held company.

131-004.01 Procedures for Providing Background Checks: The individuals specified above must:

1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked "Reason Fingerprinted", print "Credential";
3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards;
4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 131-004.02 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

131-004.02 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department at www.hhss.ne.gov/crl/crlindex.htm.

131-004.03 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

131-005 INSPECTION REQUIREMENTS: Each wholesale drug distributor doing business in Nebraska must be inspected onsite by the Department, by a nationally recognized accreditation program approved by the Board, or by another state or federal regulatory agency approved by the Board. Such inspections will occur as a condition of receiving and retaining a wholesale drug distributor license.

131-005.01 Procedures for Initial Inspection: Prior to the issuance of a wholesale drug distributor license, the Department, a nationally recognized accreditation program approved by the Board, or another state or federal regulatory agency approved by the Board will conduct an inspection of the applicant's facility within which wholesale drug distribution is to occur.

131-005.01A Applicant Responsibilities:

1. If inspected by the Department, the applicant must:
 - a. Contact the Department to schedule an inspection; and
 - b. Pay to the Department all fees for conducting the inspection, including but not limited to transportation costs, lodging, meals, and an inspection fee pursuant to 172 NAC 131-012.
2. If inspected by a nationally recognized accreditation program approved by the Board, the applicant must:
 - a. Submit documentation of current accreditation; or
 - b. Contact the nationally recognized accreditation program to schedule an inspection; and
 - c. Pay to the nationally recognized accreditation program all fees necessary for conducting the inspection.
3. If inspected by another state or federal regulatory agency approved by the Board, the applicant must:
 - a. Submit documentation of current state or federal inspection; or
 - b. Make arrangements with a state or federal regulatory agency to schedule an inspection; and
 - c. Pay any fees required by the state or federal regulatory agency for conducting the inspection.

131-005.01B Department Responsibilities: The Department will:

1. Respond to requests for inspections to be conducted by the Department;
2. Conduct an inspection within 90 days after the request for inspection; or
3. Determine, upon the recommendation of the Board, whether an inspection conducted by a nationally recognized accreditation program or another state or federal regulatory agency meets the inspection criteria pursuant to 172 NAC 131-005.04; and
4. Review the application for completeness and inform the applicant in writing if the application is incomplete and warrants the submission of additional information; or
5. Issue a wholesale drug distributor license to each applicant who meets the criteria pursuant to 172 NAC 131-003.

131-005.02 Procedures for Triennial Inspection: A pharmacy inspector of the Department, a nationally recognized accreditation program approved by the Board, or another state or federal regulatory agency approved by the Board must conduct a triennial inspection of each facility engaging in wholesale drug distribution to determine if the licensee remains in compliance with the standards pursuant to 172 NAC 131-006. A wholesale drug distributor must be inspected every three years. Inspections may occur more frequently if the Department considers it necessary.

131-005.02A Licensee Responsibilities:

1. The designated representative is present at the facility at the time of inspection;
2. All records which describe the wholesale drug distribution activities for the triennium are accessible pursuant to 172 NAC 131-006, during the inspection; and
3. Pay any required fees for conducting the inspection.

131-005.02B Department Responsibilities:

1. If the inspection is performed by the Department, the inspection will be:
 - a. Conducted by a pharmacy inspector of the Department, using a Wholesale Drug Distributor Inspection Report pursuant to 172 NAC 131-005.04; and
 - b. Conducted during normal business hours in which wholesale drug distribution occurs.
2. If the inspection is performed by a nationally recognized accreditation program approved by the Board or another state or federal regulatory agency approved by the Board, the inspection must meet the inspection criteria pursuant to 172 NAC 131-005.04, as determined by the Department, upon the recommendation of the Board.

131-005.03 Inspection for Cause: The Department may inspect a wholesale drug distributor to determine violations when any one or more of the following conditions or circumstances occur:

1. An accident or natural disaster resulting in damage to the facility or interruption of utility services which could result in adverse effects to the potency, efficacy, safety or security of the prescription drugs;
2. A complaint alleging violation of the Wholesale Drug Distributor Licensing Act or these regulations;
3. A complaint that raises concern about the maintenance, operation, or management of the facility;
4. Change of scope or type of services offered, management or location;
5. Change in the designated representative;
6. Any other event that raises concerns about the maintenance, operation, or management of the facility.

131-005.04 Wholesale Drug Distributor Inspection Report: A pharmacy inspector will conduct a Department inspection using the Wholesale Drug Distributor Inspection Report. The report will include the following:

1. Business name;
2. Street address;
3. City, state, Zip Code;
4. Name of designated representative of the facility;
5. Telephone number;
6. Wholesale drug distributor license number;
7. DEA Controlled Substances Registration number (if applicable);
8. Business hours;
9. Type of business entity:
 - a. Partnership;
 - b. Corporation; or
 - c. Sole proprietor; and
10. Standards for:
 - a. Personnel;
 - b. Facility;
 - c. Pedigrees;
 - d. Policies and procedures; and
 - e. Records.

131-005.04A Upon completion of an inspection using the Wholesale Drug Distributor Inspection Report, the pharmacy inspector will assess the compliance of the wholesale drug distributor with the standards for engaging in wholesale drug distribution pursuant to 172 NAC 131-006.

131-005.05 CRITERIA FOR SUCCESSFUL COMPLETION OF WHOLESALE DRUG DISTRIBUTOR INSPECTION: Each applicant for a wholesale drug distributor license pursuant to 172 NAC 131-003.01 must successfully complete an inspection to receive a wholesale drug distributor license and to retain such license. The criteria for successful completion of inspections conducted by the Department are set forth below.

131-005.05A Criteria for Successful Completion of Initial Inspection

1. The Department will issue a rating of "Pass/Fail" on an initial inspection.
2. The Department will issue a rating of "Fail," on the initial inspection when an applicant of a wholesale drug distributor license does not meet all the applicable requirements.
 - a. When an applicant receives a rating of "Fail" the applicant must not open the wholesale drug distribution facility;
 - b. The applicant must pay the re-inspection fee pursuant to 172 NAC 131-012.
 - c. The Department will conduct a re-inspection within 90 days

- after the applicant has failed the initial inspection to determine if the applicant meets the requirements.
- d. When the applicant receives a "Fail" rating, at the time of the re-inspection, the Department will deny the issuance of a license to engage in wholesale drug distribution.
3. The Department will issue a rating of "Pass" when the applicant meets all the applicable requirements.

131-005.05B Criteria for Successful Completion of a Triennial Inspection

1. The Department will issue a rating of "Pass" on a triennial inspection when the licensee meets all the standards for engaging in wholesale drug distribution pursuant to 172 NAC 131-006.
2. The Department will issue a rating of "Fail" on the triennial inspection when the licensee does not meet all the standards for engaging in wholesale drug distribution pursuant to 172 NAC 131-006.
 - a. When a licensee receives a rating of "Fail," it will be granted up to 90 days from the date of the triennial inspection to meet the requirements.
 - b. The licensee must pay the re-inspection fee pursuant to 172 NAC 131-012.
 - c. The Department will conduct a re-inspection within 90 days after the wholesale drug distributor has failed the inspection to determine if the wholesale drug distributor meets the requirements necessary to pass the inspection.
 - (1) If the wholesale drug distributor meets the requirements at the time of re-inspection, the Department will change the "Fail" rating and enter a "Pass" rating.
 - (2) If the wholesale drug distributor fails to meet the requirements at the time of re-inspection, the Department will, within ten days of the completion of the re-inspection, give notice to the wholesale drug distributor that the wholesale drug distributor license is revoked. Such notice will be in written form and will:
 - (a) State that the wholesale drug distributor license is revoked;
 - (b) State the reasons for the license revocation;
 - (c) State that the license revocation will become

- final 30 days after the mailing of the notice of revocation unless the licensee submits a written request for a hearing within such 30 day period; and
- (d) Be sent to the licensee by certified mail.
- (3) Upon receipt of a written request for a hearing the licensee must be given a hearing before the Department.
- (4) The Department's decision regarding the revocation of the wholesale drug distributor license will become final 30 days after a copy of the decision is mailed to the licensee unless the licensee appeals the decision pursuant to the Administrative Procedure Act and regulations adopted thereto as 184 NAC 1.
- d. When a wholesale drug distributor license is revoked for failure of a triennial inspection the wholesale drug distributor must reapply to the Department for a license to engage in wholesale drug distribution pursuant to 172 NAC 131-003.02.

131-006 STANDARDS FOR ENGAGING IN WHOLESALE DRUG DISTRIBUTION

131-006.01 Personnel: A wholesale drug distributor must employ staff to operate the wholesale drug distribution facility pursuant to 172 NAC 131. To this end, the wholesale drug distributor must designate a representative to be in charge of wholesale drug distribution and the storage and handling of all drugs. Such designated representative must:

1. Have knowledge of federal and state statutes applicable to wholesale drug distribution;
2. Have had no convictions under any federal, state, or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances;
3. Have a minimum of two years of verifiable full-time managerial or supervisory experience in a pharmacy or wholesale drug distributor licensed in this state or another state, where the designated representative's responsibilities included but were not limited to recordkeeping, storage, and shipment of prescription drugs;
4. Be actively involved in and aware of the actual daily operations of the wholesale drug distributor:
 - a. Employed full-time in a managerial position by the wholesale drug distributor;
 - b. Physically present at the wholesale drug distributor during normal business hours, except for time periods when absent due to illness,

family illness or death, scheduled vacation, or other authorized absence; and

- c. Aware of, and knowledgeable about, all policies and procedures pertaining to the operations of the wholesale drug distributor.

131-006.02 Facility: All facilities at which prescription drugs are received, stored, warehoused, handled, held, offered, marketed, displayed, or transported from must:

1. Be of suitable construction to ensure that all prescription drugs in the facilities are maintained in accordance with the product labeling of such prescription drugs, or in compliance with official compendium standards such as the United States Pharmacopeia–USP/NF;
2. Be of suitable size and construction to facilitate cleaning, maintenance, and proper wholesale drug distribution operations;
3. Have adequate storage areas to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;
4. Have a quarantine area for storage of prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, counterfeit, or suspected of being counterfeit, otherwise unfit for distribution or wholesale drug distribution, or that are in immediate or sealed secondary containers that have been opened;
5. Be maintained in a clean and orderly condition;
6. Be free from infestation of any kind;
7. Be a commercial location and not a personal dwelling or residence;
8. Provide for the secure and confidential storage of information with restricted access and policies and procedures to protect the integrity and confidentiality of the information;
9. Provide and maintain appropriate inventory controls in order to detect and document any theft, counterfeiting, or diversion of prescription drugs;
10. Provide to another wholesale drug distributor or pharmacy pedigrees for prescription drugs that leave the normal distribution chain before wholesale drug distribution to such other wholesale drug distributor or pharmacy in accordance with 172 NAC 131-006.03;
11. Maintain records of pedigrees for three years; and
12. Be duly registered with Drug Enforcement Administration (DEA) and appropriate state controlled substance agency and in compliance with all applicable laws and rules for the storage, handling, transport, shipment, and

wholesale drug distribution of controlled substances, if the wholesale drug distributor is involved in the distribution of controlled substances.

131-006.03 Pedigrees

131-006.03A Pedigree Requirements: All prescription drugs that leave the normal distribution chain must be accompanied by a paper or electronic pedigree. A pedigree must include all necessary identifying information concerning each sale or other transfer in the chain of distribution of the prescription drug from the manufacturer, through acquisition and sale by any wholesale drug distributor, until final sale to a pharmacy or other person dispensing or administering such drug, including:

1. Name of the prescription drug;
2. Dosage form and strength of the prescription drug;
3. Size of the container;
4. Number of containers;
5. Lot number of the prescription drug;
6. Name of the original manufacturer of the finished dosage form of the prescription drug;
7. Name, address, telephone number, and if available, the e-mail address of each owner of the prescription drug and each wholesale drug distributor who does not take title to the prescription drug;
8. Name and address of each location from which the prescription drug was shipped if different from the owner's;
9. Transaction dates;
10. Certification that each recipient has authenticated the pedigree;
11. Name of any repackager, if applicable; and
 - a. Name and address of person certifying the delivery.
 - b. Each paper or electronic pedigree must be maintained by the purchaser and the wholesale drug distributor for three years from the date of sale or transfer and available for inspection or use upon request of law enforcement or an authorized agent of the Department.

131-006.03B Authentication of Pedigrees

1. Wholesale drug distributors and manufacturers from whom wholesale drug distributors have acquired prescription drugs must cooperate with pedigree authentication efforts and provide the requested information within 48 hours.

2. If the wholesale drug distributor attempting to authenticate the pedigree of the prescription drug is unable to authenticate the pedigree, the wholesale drug distributor must quarantine the prescription drug and file a report with the Department within five business days after completing the attempted authentication; and
3. If the wholesale drug distributor attempting to authenticate the pedigree of the prescription drug is able to authenticate the pedigree, the wholesale drug distributor must maintain records of the authentication for three years, and must produce them to the Department upon request.

131-006.04 Policies and Procedures: Wholesale drug distributors must include in their written policies and procedures the following:

1. A procedure to be followed for handling recalls and withdrawals of prescription drugs. Such procedure must be adequate to deal with recalls and withdrawals due to:
 - a. Any action initiated at the request of FDA or any other federal, state, or local law enforcement or other government agency, including the Board; or
 - b. Any volunteer action by the manufacturer to remove defective or potentially defective prescription drugs from the market.
2. A procedure for guarding against losses and/or employee theft.
3. A procedure for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories.
4. A procedure for reporting criminal or suspected criminal activities involving the inventory of prescription drug(s) to the Department within the five business days.
5. A procedure to ensure that wholesale drug distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of a strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency.
6. A procedure that provides for inspection of all incoming and outgoing prescription drug shipments.
7. A procedure to ensure that any outdated prescription drugs must be segregated from other prescription drugs and are then either returned to the manufacturer or a reverse distributor or destroyed in accordance with federal and state laws, including all necessary documentation and the appropriate witnessing. This procedure must provide for written documentation of the

disposition of outdated prescription drugs. This documentation must be maintained for two years after disposition of the outdated prescription drugs.

8. A procedure for the destruction of outdated prescription drugs in accordance with federal and state laws, including all necessary documentation, maintained for a minimum of three years, and the appropriate witnessing of the destruction of outdated prescription drugs in accordance with all applicable federal and state requirements.
9. A procedure for the disposing and destruction of containers, labels, and packaging to ensure that the containers, labels, and packaging cannot be used in counterfeiting activities, including all necessary documentation, maintained for a minimum of three years, and the appropriate witnessing of the destruction of any labels, packaging, immediate containers, or containers in accordance with all applicable federal and state requirements.
10. A procedure for identifying, investigating and reporting significant prescription drug inventory discrepancies involving counterfeit, suspect of being counterfeit, contraband, or suspect of being contraband, in the inventory and reporting of such discrepancies within five business days to the Department and/or appropriate federal or state agency upon discovery of such discrepancies.
11. A procedure for conducting authentication of pedigrees pursuant to 172 NAC 131-006.03B.

131-006.05 Records: A wholesale drug distributor must have records to document all drug purchases and sales.

131-006.05A Wholesale drug distributors must establish and maintain inventories and records of all transactions regarding the receipt and wholesale drug distribution or other disposition of prescription drugs. These records must include:

1. Dates of receipt and wholesale drug distribution or other disposition of the prescription drugs; and
2. Pedigrees for all prescription drugs that are wholesale distributed outside the normal distribution chain.

131-006.05B Such records must include the inventories and records must be made available for inspection and photocopying by any authorized official of any state, federal, or local governmental agency for a period of three years following their creation date.

131-006.05C Records described in this section that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means must be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site and not electronically retrievable must be made available for inspection within two working days of a request by an

authorized official of any state or federal governmental agency charged with enforcement of these rules.

131-006.05D Wholesale drug distributors and manufacturers must maintain an ongoing list of persons with whom they do business to sell or purchase prescription drugs.

131-006.05E All facilities must establish and maintain procedures for reporting counterfeit and contraband or suspected counterfeit and contraband drugs or counterfeiting and contraband or suspected counterfeiting and contraband activities to the Department and FDA.

131-006.05F Wholesale drug distributors must maintain a system for the mandatory reporting of significant shortages or losses of prescription drugs where it is known or suspected that diversion is occurring to the Department and FDA, and, where applicable, to DEA.

131-006.05G Records must be maintained by the wholesale drug distributor to document all purchases, sales, destruction, transfer, loss, and return of drugs.

131-006.05H Records may be kept manually or by electronic or automated means. When an automated recordkeeping system is used, there must be a complete back-up system every seven days that is verifiable to prevent loss of records.

131-007 AMENDING A WHOLESALE DRUG DISTRIBUTOR APPLICATION OR LICENSE: A license is issued only for the premises and person(s) named in the application and is not transferable or assignable. Change of ownership or change of premises terminates the license. The owner(s) must apply for a new wholesale drug distributor license.

131-007.01 Amendment: An applicant or licensee must notify the Department when there is a change in the designated representative. The applicant or licensee is responsible for meeting the requirements pursuant to 172 NAC 131-003.02A item 3 and may amend the wholesale drug distributor application or license by submitting the required information regarding the new designated representative to the Department.

131-008 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses issued by the Department pursuant to the Act and 172 NAC 131 expire on July 1 of each year.

131-008.01 Renewal process: Any licensee who wishes to renew his/her license must:

1. Pay the renewal fee pursuant to 172 NAC 131-012;
2. Provide proof of a bond;
3. Respond to the following questions:
 - a. Has any license of the facility in another state been revoked, suspended, limited or disciplined in any manner?

This question relates to the time period since the last renewal of the license

or during the time period since initial licensure in Nebraska if such license was issued within the last year.

- b. Since the last renewal of the license or since initial licensure in Nebraska if such license was issued within the last year, has the designated representative of the facility been:
 - (1) The subject of any proceeding for the revocation of any license, and if so, the nature of the proceeding and its disposition;
 - (2) Either temporarily or permanently enjoined by a court of competent jurisdiction from violations of any federal or state law regulating the possession, control, or distribution of prescription drugs, and if so, the details of such order;
 - (3) Involved in any lawsuits regarding the manufacture, administration, distribution or storage of prescription drugs; or
 - (4) Convicted of any felony, and if so, the details relating to such conviction.
5. Attest that the information provided is true and correct to the best of their knowledge;
6. Be inspected pursuant to 172 NAC 131-005.02 prior to the renewal of the license; and
7. Submit to the Department:
 - a. The completed renewal notice;
 - b. Proof of a bond;
 - c. Proof of an acceptable inspection completed with the previous three years;
 - d. If any misdemeanor or felony conviction(s) of the designated representative of the licensee or any disciplinary action was taken against the licensee by another state, an official copy of the disciplinary action or court records, including charges and disposition;
 - e. Attestation that the completed renewal notice is true and correct to the best of their knowledge; and
 - f. The renewal fee;

131-008.02 First Notice: At least 30 days before July 1 of each year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's current mailing address as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

131-008.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;

5. The renewal fee pursuant to 172 NAC 131-012;

131-008.02B The licensee must apply for renewal by submitting to the Department:

1. The completed renewal notice;
2. Proof of a bond;
3. Proof of an acceptable inspection completed within the previous three years;
4. Documentation relating to misdemeanor or felony conviction(s) of the designated representative of the licensee or licensure revocation, suspension, limitation or disciplinary action of the licensee since the last renewal (if applicable); and
5. The renewal fee.

131-008.03 Second Notice: The Department will send to each licensee who fails to renew his/her license in response to the first notice, a second notice of renewal pursuant to 172 NAC 131-005.01 that specifies:

1. The licensee failed to pay the renewal fee;
2. The license has expired;
3. Upon receipt of the renewal fee, together with an additional late fee of \$100, no order of revocation will be entered; and
4. Upon failure to receive \$100 in addition to the regular renewal fee, the license will be revoked pursuant to 172 NAC 131-009.

131-008.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice; and
2. The renewal fee and the additional late fee of \$100;

131-008.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee and/or to pay an additional late fee of \$100, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

131-008.05 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

131-009 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:
The Department will revoke a wholesale drug distributor license when the licensee fails to meet the renewal requirements.

131-009.01 Revocation for Non-Renewal within 30 Days of Expiration of the License.

131-009.01A When a licensee fails to meet the renewal requirements, pay the required renewal fee, and/or to pay a late fee of \$100 within 30 days of its expiration,

the Department automatically revokes the credential without further notice or hearing.

131-009.01A1 A revocation notice will be sent which will specify that:

1. The licensee was given a first and final notice of renewal requirements and the respective dates for these notices;
2. Department has revoked the license; and
3. The licensee has a right to request reinstatement of the license.

131-010 PROCEDURES FOR REINSTATEMENT OF WHOLESALE DRUG DISTRIBUTOR LICENSE

131-010.01 Reinstatement After Revocation for Non-Renewal: A wholesale drug distributor whose license has been revoked for not meeting the renewal requirements may have such license reinstated by the Department, upon recommendation of the Board, and meeting the renewal requirements, payment of renewal fee and penalty fee when the application for reinstatement is made within one year of revocation.

131-010.01A The licensee must submit:

1. A verified completed application for reinstatement on a form provided by the Department, which includes the following information:
 - a. The name of the licensee;
 - b. The licensee's last known address of record;
 - c. The license number;
 - d. The expiration date of the license;
 - e. Provide proof of a bond;
 - f. Respond to the following questions:
 - (1) Has designated representative of the licensee been convicted of a misdemeanor or felony?
 - (2) Has any license of the entity in any profession in another state been revoked, suspended, limited or disciplined in any manner?

These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
 - g. Be inspected pursuant to 172 NAC 131-005.02 prior to the renewal of the license: and
2. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. Proof of a bond;

- c. Proof of an acceptable inspection completed with the previous three years;
- d. If any misdemeanor or felony conviction(s) of the designated representative of the licensee or any disciplinary action was taken against the licensee by another state, an official copy of the disciplinary action or court records, including charges and disposition; and
- e. The renewal fee and the reinstatement fee pursuant to 172 NAC 131-012.

131-010.02 Reapplication After One Year of Revocation for Non-Payment of Renewal Fee:

A wholesale drug distributor whose license has been revoked for more than one year for not meeting renewal requirements, may reapply to the Department for a license. Such reapplication must be made in the same manner as an application for an initial license. The procedures for such are pursuant to 172 NAC 131-003.02.

131-010.03 Reinstatement After Disciplinary Action: A wholesale drug distributor license which has been suspended or revoked for disciplinary action, may be reinstated by the Department upon the recommendation of the Board.

131-010.03A A wholesale drug distributor license, when suspended for disciplinary action, will be suspended for a definite period of time to be fixed by the Director and may be reinstated upon the expiration of such period, payment of the current renewal fee and reinstatement fee after discipline pursuant to 172 NAC 131.012, and meeting the requirements of 172 NAC 131-003.02.

131-010.03B A wholesale drug distributor license, when revoked for disciplinary action, will be revoked permanently, except that at any time after the expiration of two years, a petition for reinstatement may be made.

131-010.03B1 The petitioner must submit an application in the same manner as an application for an initial license. The procedures for such are pursuant to 172 NAC 131-003.02.

131-011 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A WHOLESALE DRUG DISTRIBUTOR LICENSE

131-011.01 The Department will deny an application for a wholesale drug distributor license when an applicant fails to meet the requirements pursuant to 172 NAC 131-003.

131-011.02 The Department will refuse renewal of a wholesale drug distributor license if the licensee fails to meet the renewal requirements pursuant to 172 NAC 131-008, or is found to be in violation of any of the provisions pursuant to 172 NAC 131-011.03.

131-011.03 The Department may deny, suspend, limit, or revoke a wholesale drug distributor license when the Director finds that the licensee has violated any provisions of the Wholesale Drug Distributor Licensing Act or of these regulations; or any of the following acts:

1. Conviction of any crime that has rational connection with the licensee's fitness to hold a license as a wholesale drug distributor;
2. Obtaining a wholesale drug distributor license by false representation and/or fraud;
3. Operating a wholesale drug distribution facility without a currently valid license;
4. Any conviction under Federal, State, or local laws or regulations relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances;
5. Unprofessional conduct which is hereby defined to include:
 - a. Misrepresentation or fraud in the conduct of a wholesale drug distribution facility;
 - b. Aiding or abetting an unlicensed facility to engage in wholesale drug distribution; and
 - c. Knowingly purchasing or receiving prescription drugs from any source other than a person or entity licensed or exempt from licensure pursuant to the Wholesale Drug Distributor Licensing Act, except transfers for emergency medical reasons. This will not apply to returns or recalls, misshipments, misorders, or damaged goods, etc.
6. Failure of the licensee to maintain and make available to the Department or to Federal, State, or local law enforcement officials records required by these regulations;
7. Falsification of a pedigree;
8. Selling, distributing, transferring, manufacturing, repackaging, handling, or holding a counterfeit prescription drug intended for human use;
9. Commission of any acts pursuant to Neb. Rev. Stat. §§ 71-147 and 71-148 of the Uniform Licensing Law;
10. The adulteration, misbranding, or counterfeiting of any prescription drug;
11. The receipt of any prescription drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit, or the delivery or proffered delivery of such prescription drug for pay or otherwise;
12. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the product labeling of a prescription drug or the commission of any other act with respect to a prescription drug that results in the prescription drug being misbranded;

13. The purchase or receipt of a prescription drug from a person that is not licensed to wholesale distribute prescription drugs to that purchaser or recipient;
14. The sale or transfer of a prescription drug to a person who is not legally authorized to receive a prescription drug;
15. Providing the Department or any of its representatives or any state or federal official with false or fraudulent records or making false or fraudulent statements regarding any matter within the provisions of this Act and rules;
16. The obtaining of or attempting to obtain a prescription drug by fraud, deceit, misrepresentation or engaging in misrepresentation or fraud in the distribution or wholesale distribution of a prescription drug;
17. The failure to obtain, authenticate, or pass on a pedigree when required under these rules;
18. The receipt of a prescription drug pursuant to a wholesale drug distribution without first receiving a pedigree, when required, that was attested to as accurate and complete by the wholesale drug distributor;
19. The distributing or wholesale drug distributing of a prescription drug that was previously dispensed by a pharmacy or distributed by a practitioner; and
20. The failure to report any prohibited act as listed in these rules.

131-011.04 If the Department determines to deny, suspend, limit, revoke, or refuse renewal of a wholesale drug distributor license for any of the grounds specified in 172 NAC 131-011, it will give the applicant or licensee an opportunity for a hearing before the Department; and the applicant or licensee must have a right to present evidence on his/her own behalf.

131-011.05 Hearings before the Department will be conducted pursuant to the Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

131-011.06 The Department, upon issuance of a final disciplinary action against a person who violates any provision of these regulations, will assess a fine of \$1,000 against such person. For each subsequent final disciplinary action for such violation issued by the Department against such person, the Department will assess a fine of \$1,000 plus \$1,000 for each final disciplinary action for such violation previously issued against such person, not to exceed \$10,000.

131-011.07 The Department, upon issuance of a final disciplinary action against a person who fails to provide authorized personnel the right of entry pursuant to 172 NAC 131-005 will assess a fine of \$500 against such person. For each subsequent final disciplinary action for such failure issued against such person, the Department will assess a fine equal to \$1,000 times the number of such disciplinary actions, not to exceed \$10,000.

131-011.08 All fines collected under 172 NAC 131-011 will be remitted to the State Treasurer for credit to the Permanent School Fund.

131-012 SCHEDULE OF FEES: The following fees have been set by the Department:

131-012.01 Initial License Fee: By an applicant for a wholesale drug distributor license, the fee of \$550;

131-012.02 License Renewal Fee: By an applicant for a renewal on a wholesale drug distributor license, the fee of \$550;

131.012.03 Inspection Fee: By an applicant for issuance or renewal of a wholesale drug distributor license who requests an inspection to be conducted by a pharmacy inspector of the Department, the fee of \$3,000 in addition to actual costs for transportation, lodging and meals of the pharmacy inspector who conducts the inspection.

131-012.04 Re-inspection Fee: By an applicant for issuance or renewal of a wholesale drug distributor license who requests a re-inspection to be conducted by a pharmacy inspector of the Department, the fee of \$750 in addition to actual costs for transportation, lodging and meals of the pharmacy inspector who conducts the re-inspection.

131-012.05 Renewal Late Fee: By an applicant for renewal on an annual basis of a credential, who fails to pay the renewal fee on or before the expiration date of the credential, the fee of \$100 as a late fee in addition to the renewal fee.

131-012.06 Reinstatement Fee: For a reinstatement of a credential for failure to meet renewal requirements, the fee of \$50.

131-012.07 Reinstatement Fee After Discipline: For reinstatement of a wholesale drug distributor credential following suspension, limitation, or revocation for disciplinary reasons, the fee of \$100.

131-012.08 Duplicate License Fee: By an applicant for a duplicate original license or a reissued license, the fee of \$10.

131-011.08 Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if onsite inspection has been completed prior to such denial, the Department may retain the entire license fee.

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TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH BUREAU OF EXAMINING BOARDS

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TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH
BUREAU OF EXAMINING BOARDS

CHAPTER 134 - REGULATIONS GOVERNING PUBLIC HEALTH CLINICS OPERATING WITH
A DRUG DISPENSING PERMIT

001 SCOPE OF REGULATIONS. These regulations shall apply to the issuance of drug dispensing permits for public health clinics, and are based upon Neb. Rev. Stat. §§71-1,147.39 to 71-1,147.61 and 71-5401 to 71-5408, 71-2401 to 71-2405, 71-2406 to 71-2409, and the Uniform Licensing Law.

002 DEFINITIONS.

002.01 Approved Formulary or Formulary shall mean a list of drugs and devices and patient instruction requirements recommended by the Formulary Advisory Committee, approved by the Board and adopted by the Department for dispensing by public health clinics.

002.02 Approved Training shall mean training provided by a licensed, actively practicing pharmacist according to the standards set out by the Board upon the recommendation of the Formulary Advisory Committee.

002.03 Available as used in these regulations shall mean the immediate ability to contact the consultant pharmacist or on-call pharmacist of a public health clinic with a drug dispensing permit during dispensing either in person or by telephone by health care professionals as defined in Subsection 002.15 of these regulations and public health clinic workers as defined in Subsection 002.24 of these regulations, to answer questions from clients, staff, public health clinic workers or volunteers.

002.04 Board or Board of Pharmacy shall mean the Board of Examiners in Pharmacy.

002.05 Bureau shall mean the Bureau of Examining Boards of the Nebraska Department of Health.

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002.06 Calculated Expiration Date shall mean an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging.

002.07 Consultant Pharmacist as used in these regulations shall mean an actively practicing Nebraska pharmacist who holds an unrestricted license designated on the drug dispensing permit as the pharmacist who is responsible for all duties set forth in Part 009.01A of these regulations.

002.08 Department shall mean the Nebraska Department of Health.

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

002.10 Director shall mean the Director of the Nebraska Department of Health.

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

002.12 Drug Dispensing Permit shall mean a permit issued by the Department upon the recommendation of the Board to a public health clinic which allows for the dispensing of drugs and devices with the formulary approved by the Director of Health pursuant to Section 006 of these regulations.

002.13 Drugs, Medicines, and Medicinal Substances as used in these regulations shall mean (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans, (c) articles, except food, intended to affect the structure or any function of the body of a human, (d) articles intended for use as a component of any articles specified in division (a), (b), or (c) or this subdivision, except any device or its components, parts or accessories, and (e) prescription drugs as defined in Subsection 002.22 of these regulations.

002.14 Formulary Advisory Committee shall mean an advisory committee to the Board composed of eight (8) members: two (2) members designated by the Board; two (2) actively practicing licensed pharmacists; two (2) members who are employees of the department with knowledge of and interest in reproductive health and sexually transmitted diseases and who work with such programs; and two (2) members who are employed by public health clinics and are recommended by same.

002.15 Health Care Professional as used in these regulations shall mean any person licensed in Nebraska to practice medicine and surgery or pharmacy or licensed or certified in Nebraska as a registered nurse, licensed practical nurse, or physician assistant.

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

002.17 License, licensing or licensure shall mean permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title.

002.18 Medical Practitioner as used in these regulations shall mean any licensed physician, surgeon, or other person licensed or certified to write prescriptions intended for treatment or prevention of disease or to affect body function in humans.

002.19 On-call pharmacist shall mean an actively practicing pharmacist who holds an unrestricted license to practice pharmacy in Nebraska and who is available in the event the consultant pharmacist is not available as defined in Subsection 002.03 of the these regulations.

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

002.21 Pharmacist shall mean the person who (a) is licensed by the State of Nebraska to practice pharmacy or (b) is primarily responsible for providing pharmaceutical care as defined in Subsection 002.20 of these regulations.

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

002.23 Prescription order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug or device.

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002.24 Public Health Clinic Worker shall mean a person in a public health clinic operating with a drug dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task of dispensing authorized refills of oral contraceptives.

002.25 Public Health Clinic shall mean the department, any county, city-county or multi-county health department, or any private not-for-profit family planning or reproductive health care clinic licensed as a health clinic as defined in Neb. Rev. Stat. §71-2017.01.

002.26 State shall mean the State of Nebraska.

002.27 Unrestricted license or certificate as used in these regulations, shall mean any licensee or certificate holder who has been approved by the appropriate Board of Examiners to work in a public health clinic.

003 REQUIREMENTS FOR ISSUANCE OF A DRUG DISPENSING PERMIT. Any public health clinic who does not hold a pharmacy permit and who wishes to dispense and store drugs and devices which are listed on the approved formulary must obtain a drug dispensing permit. The criteria for issuance of a drug dispensing permit and documentation required by the Department and the Board are set forth below.

003.01 Applicant Requirements. An applicant for a drug dispensing permit must:

003.01A Be a public health clinic as defined in Subsection 002.25 of these regulations.

003.01B Have an actively practicing Nebraska-licensed pharmacist listed as a consultant pharmacist who has an unrestricted license as defined in Subsection 002.27 of these regulations;

003.01C Submit to the Department:

003.01C1 A verified complete application on a form provided by the Department, a copy of which is attached hereto as Attachment A, and incorporated in these regulations by this reference. Only applications which are complete will be considered;

003.01C2 A completed application for a drug dispensing permit must be submitted at least thirty (30) days before the anticipated opening date to allow for an initial on-site inspection to be conducted; and

003.01C3 The required initial inspection fee of \$125.00.

003.02 Department Responsibility. The Department shall:

003.02A Review the application to determine its completeness;

003.02B Acknowledge receipt of the application with a copy of the acknowledgement letter provided to the appropriate pharmacy inspector;

003.02C Schedule with the applicant and conduct an inspection pursuant to Section 004 of these regulations prior to the issuance of the initial drug dispensing permit. The results of such inspection shall be recorded on a form entitled "The Drug Dispensing Permit Inspection Report," a copy of which is attached hereto as Attachment B, and incorporated in these regulations by this reference;

003.02D Act within 150 days of receipt of a completed application for a drug dispensing permit; and

003.02E Issue a drug dispensing permit to each establishment which meets the requirements as defined in Section 004 of these regulations.

003.03 Separate drug dispensing permits shall be required for public health clinics maintained on separate premises even though operated under the same management.

003.03A A separate drug dispensing permit shall not be required for an ancillary facility which offers intermittent services, which is staffed by personnel from the public health clinic site for which a drug dispensing permit has been issued, and at which no legend drugs or devices are stored.

003.04 Permit Display. Each permittee must conspicuously display the drug dispensing permit in the drug dispensing area.

004 PROCEDURES FOR INSPECTIONS In order for a public health clinic to obtain a drug dispensing permit, an initial on-site inspection must be successfully completed.

004.01 Initial Inspection A scheduled initial on-site inspection shall be conducted by a pharmacist of the Department using "The Drug Dispensing Permit Inspection Report" provided by the Department, a copy of which is attached hereto as Attachment B, and incorporated in these regulations by this reference, to determine if the public health clinic complies with the following standards:

004.01A At the time of the initial inspection, the inspector must be provided with the following:

004.01A1 Photocopy of current license(s) of pharmacist(s) on file in the drug dispensing area;

004.01A2 A sign which displays in letters not less than 1" in height, "Licensed Pharmacist Not Available For Consultation. No Prescriptions May Be Dispensed At This Time" to be used whenever a licensed pharmacist is not available;

004.01A3 The name of the consultant pharmacist;

004.01A4 Evidence that in the event the drug dispensing area hours are different than the public health clinic hours (i.e., late opening, early closing, both, or any variation of the preceding), the drugs, devices, supplies and acquisition and dispensing records of drugs and devices will be completely enclosed, locked and secured;

004.01A5 Evidence of environmental control of the drug dispensing area which allows products to be stored at the manufacturer's recommended storage requirements;

004.01A6 Adequate lighting of the drug dispensing area to enable the personnel to properly observe the identities of all drugs and devices, and to dispense drugs and devices;

004.01A7 Evidence that facilities allow for cleaning of the drug dispensing area and the equipment and utensils used in dispensing of drugs and devices;

004.01A8 Evidence that the drug dispensing area, including shelving, counters, floor, refrigerator, drug inventory, equipment and utensils are maintained in a clean, orderly, and sanitary manner at all times;

004.01A8a If approved formulary does not include drugs or devices which require refrigeration, then a refrigerator is not required.

004.01A9 A public health clinic with a drug dispensing permit shall maintain a library which consists of either printed or automated form of the following:

004.01A9a Any United States Pharmacopoeia Drug Information (U.S.P.D.I.) Volumes 1 and 2 which contain all drugs listed in the formulary;

004.01A9b Current copies of the Nebraska Pharmacy Statutes and Regulations applicable to the dispensing of legend drugs and devices in public health clinics; and

004.01A9c A medical dictionary.

004.01A10 Mid-Plains Poison Control Center phone number displayed in a conspicuous place;

004.01A11 At least three spatulas and a counting tray;

004.01A12 Adequate refrigeration when required which ensures the preservation and maintenance of the integrity of approved formulary drugs and devices. The consultant pharmacist is responsible for periodically reviewing and evaluating the refrigeration storage conditions to ensure sanitary conditions exist;

004.01A13 A current copy of the policy and procedure manual which shall identify and locate at least the following:

004.01A13a Consultant pharmacist monthly inspection reports;

004.01A13b Labeling requirements;

004.01A13c Storage and security of drugs and devices;

004.01A13d Proper patient instruction;

004.01A13e Formulary;

004.01A13f Library resources;

004.01A13g Record keeping, to include the medical chart;

004.01A13h Drug recall procedures;

004.01A13i Policies for licensed or certified health care staff; and

004.01A13j Policies for public health clinic workers.

004.02 Annual Inspection. An annual inspection of the drug dispensing area of a public health clinic with a drug dispensing permit shall be conducted by a pharmacist of the Department to ensure compliance with requirements specified in Sections 003 and 005 of these regulations.

004.02A Inspections may occur more frequently if the Department considers it necessary.

004.03 Follow-up Inspection. A follow-up inspection is conducted by a pharmacist of the Department whenever the Department or Board deems necessary based upon a complaint filed against a public health clinic or any staff member, public health clinic worker, volunteer, or any consultant in association with work performed under a drug dispensing permit.

004.04 Closing Inspection. When a public health clinic with a drug dispensing permit anticipates closing for business, the Department must be notified in writing at least thirty (30) days before closing date. Such notification shall state the anticipated closing date.

004.04A The Department shall conduct a closing inspection;

004.04B Documentation shall be provided to the Department which verifies that the permittee has completed a closing inventory and has properly disposed of all legend drugs and devices; and

004.04C Record of such closing shall be on a form entitled "Drug Dispensing Permit Closing Form" a copy of which is attached hereto as Attachment C, and incorporated in these regulations by this reference.

005 CRITERIA FOR SUCCESSFUL COMPLETION OF AN INSPECTION Each applicant for a drug dispensing permit must successfully complete an on-site inspection to receive a permit to operate. The criteria for successful completion of inspections are set forth below.

005.01 Criteria for Successful Completion of an Initial Inspection.

005.01A The Department shall issue a rating of "Pass/Fail" on an initial inspection.

005.01B The Department shall issue a rating of "Fail" on the initial inspection when an applicant does not meet the requirements of inspection.

005.01B1 When an applicant receives a rating of "Fail," the applicant shall not dispense drugs or devices and shall be granted ninety (90) days from the date of the initial inspection to meet the requirements.

005.01B2 The Department shall conduct a re-inspection within ninety (90) days after the applicant has failed the initial inspection to determine if the applicant meets the requirements.

005.01B3 When the applicant for a drug dispensing permit receives a "Fail" rating, after the re-inspection, the Department shall deny the applicant the issuance of a drug dispensing permit to a public health clinic.

005.01C The Department shall issue a rating of "Pass" when the applicant meets 100% of all applicable requirements.

005.02 Criteria for Successful Completion of an Annual Inspection.

005.02A The Department shall issue a rating of "Pass" on an annual inspection when the permittee receives an overall inspection rating of 90% or greater.

005.02B The Department shall issue a rating of "Fail" on the annual inspection when the permittee receives an overall inspection rating of less than 90%.

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005.02B1 When a permittee receives a rating of "Fail," it shall be granted up to ninety (90) days from the date of the annual inspection to meet the requirements.

005.02B2 The Department shall conduct a re-inspection within ninety (90) days after the permittee has failed the annual inspection to determine if the public health clinic with a drug dispensing permit meets the requirements.

005.02B2a If the permittee meets the requirements at the time of re-inspection, the Department shall change the "Fair" rating and enter a "Pass" rating.

005.02B2b If the permittee fails to meet the requirements at the time of re-inspection, the Department shall, within ten (10) days of the completion of the re-inspection, give notice to the permittee that the drug dispensing permit is revoked or suspended. Such notice shall be in written form and shall:

005.02B2b(1) State that the drug dispensing permit is revoked or suspended;

005.02B2b(2) State the reasons for the permit revocation or suspension;

005.02B2b(3) State that the permit revocation or suspension will become final thirty (30) days after the mailing of the notice of revocation or suspension unless the permittee submits a written request for a hearing within such thirty (30) day period; and

005.02B2b(4) Be sent to the permittee by certified mail.

005.02B2c Upon receipt of a written request for a hearing the permittee shall be given a hearing before the Department.

005.02B2d The Department's decision regarding the revocation or suspension of the drug dispensing permit shall become final thirty (30) days after a copy of the decision is mailed to the permittee unless the permittee appeals the decision pursuant to Neb. Rev. Stat. §71-1,147.12.

005.02B3 When a drug dispensing permit is revoked or suspended for failure of an annual inspection, the public health clinic must reapply to the Department for a permit to operate as specified in Section 003 of these regulations.

006 ESTABLISHMENT OF THE FORMULARY ADVISORY COMMITTEE. The Formulary Advisory Committee is an advisory committee to the Board.

006.01 Composition of the Committee. The Formulary Advisory Committee shall consist of eight members as follows:

006.01A Two members designated by the Board;

006.01B Two members who are employees of the Department who have knowledge and interest in reproductive health care and sexually transmitted diseases and who work with such programs;

006.01C Two members who are actively practicing pharmacists and who hold unrestricted licenses to practice pharmacy in Nebraska;

006.01C1 The Nebraska Pharmacists Association may submit to the Director a list of five (5) persons of recognized ability in the profession.

006.01C2 The Director shall consider the five (5) names submitted by the Nebraska Pharmacists Association and may appoint one or two of the persons to be committee members.

006.01C3 The Director may appoint any qualified pharmacist even if such persons are not named on the list submitted by the Nebraska Pharmacists Association.

006.01D Two members who are employees of public health clinics which are or will operate with drug dispensing permits.

006.01D1 The Director will select these two members from names recommended by public health clinics which are or will operate with drug dispensing permits.

006.02 Committee appointments. Initial recommendations shall be made to the Director.

006.02A Recommendations to the Director shall be submitted in July prior to the meeting during the third quarter of the calendar year.

006.02B Members shall serve for terms of two years each beginning with the meeting held during the third quarter of the calendar year except that one-half of the initial members appointed to the Committee, as appointed by the Director, shall serve for terms of three years each.

006.02C The Director may approve members to serve consecutive terms.

006.02D The Director may remove a member of the Committee for inefficiency, neglect of duty, or misconduct in office.

006.03 Committee Responsibilities. The Formulary Advisory Committee responsibilities are as follows:

006.03A The Committee shall meet annually but may meet quarterly.

006.03B The Committee shall recommend to the Board:

006.03B1 The formulary of drugs and devices to be dispensed by public health clinics operating with drug dispensing permits;

006.03B2 The addition or deletion of drugs and devices to the formulary;

006.03B3 The patient instruction requirements including directions for use, potential side effects, drug interactions, criteria for contacting the on-call pharmacist, and written information to be given to patients;

006.03B4 The standards for the training of the public health clinic workers; and

006.03B5 The standards for proficiency for public health clinic workers.

006.03C The Board shall recommend the formulary to the Director.

006.03D The Director shall approve the formulary to be used by public health clinics operating with a drug dispensing permit.

007 APPROVED FORMULARY. Only drugs and devices that have been approved by the Director upon the recommendation of the Board which shall be based upon the recommendation of the Formulary Advisory Committee shall be included on the formulary used by public health clinics operating with a drug dispensing permit.

007.01 Types of Drugs and Devices to be Included in Formulary. The formulary shall consist of a list of drugs and devices for contraception, or the treatment of sexually transmitted diseases, and the treatment of vaginal infections.

007.02 Specific Requirements of Drugs or Devices Included on the Formulary. Drugs or devices dispensed and stored at a public health clinic with a drug dispensing permit may be included on the formulary only if they include the following:

007.02A Patient instruction requirements which shall include directions on the use of the drug or device;

007.02B Potential side effects and drug interactions;

007.02C Criteria for contacting the on-call pharmacist; and

007.02D Accompanying written patient information.

007.03 Drugs and Devices Not Permitted on the Formulary. Drugs and devices with the following characteristics shall not be eligible to be included in the formulary:

007.03A Controlled substances;

007.03B Drugs with significant dietary interactions;

007.03C Drugs with significant drug-drug interactions; and

007.03D Drugs or devices with complex counseling profiles.

007.04 Changes to the formulary. Any additions or deletions of drugs or devices to the formulary must be approved by the Director, upon the recommendation of the Board which shall be based upon the recommendation of the Formulary Advisory Committee.

008 STAFFING REQUIREMENTS FOR A PUBLIC HEALTH CLINIC WITH A DRUG DISPENSING PERMIT.

008.01 Staff Qualifications. The following requirements must be met for staff working in public health clinics with a drug dispensing permit:

008.01A Consultant Pharmacist. A consultant pharmacist to a public health clinic must be an actively practicing pharmacist who holds an unrestricted license to practice pharmacy issued by the state of Nebraska;

008.01B On-Call Pharmacist. An on-call pharmacist who is available to the public health clinic must be an actively practicing pharmacist who holds an unrestricted license to practice pharmacy issued by the state of Nebraska;

008.01C Physician. A physician must hold an unrestricted license to practice medicine and surgery in the state of Nebraska and has completed approved training as provided in Subpart 008.02A1 of these regulations;

008.01D Nurse Practitioner. A nurse practitioner must be a licensed professional nurse who holds an unrestricted license issued by the state of Nebraska to practice as a Nurse Practitioner in the specialty for which he or she has been educated and has completed approved training as provided in Subpart 008.02A1 of these regulations;

008.01E Nurse Midwife. A nurse midwife must be a licensed professional nurse who holds an unrestricted license to practice midwifery in the state of Nebraska and has completed approved training as provided in Subpart 008.02A1 of these regulations;

008.01F Physician Assistant. A physician assistant must hold an unrestricted certificate to practice as a physician assistant in the state of Nebraska and has completed approved training as provided in Subpart 008.02A1 of these regulations;

008.01G Licensed Professional Nurse. A licensed professional nurse must hold an unrestricted license to practice nursing in the state of Nebraska and has completed approved training as provided in Subpart 008.02A2 of these regulations;

008.01H Licensed Practical Nurse. A licensed practical nurse must hold an unrestricted license to practice as a practical nurse in the state of Nebraska and has completed approved training as provided in Subpart 008.02A2 of these regulations;

008.01I Public Health Clinic Worker. A public health clinic worker must:

008.0111 Be at least eighteen (18) years of age;

008.0112 Hold a high school diploma or the equivalent;

008.0113 Complete approved training as provided in Subpart 008.02A3;

008.0114 Demonstrate proficiency as provided in Subsection 008.03; and

008.0115 Be supervised with documentation by a licensed or certified health care professional for the first month that dispensing of authorized refills of oral contraceptives occurs.

008.02 Training Requirements. The training shall be approved according to the standards determined by the Board upon recommendation of the Formulary Advisory Committee. Such training is required prior to dispensing drugs and devices under a drug dispensing permit. All training shall be conducted by an actively practicing pharmacist who holds an unrestricted Nebraska pharmacy license.

008.02A Approved training shall include but is not limited to the following:

008.02A1 Persons licensed to practice medicine and surgery and persons certified as a physician assistant, nurse practitioner, or nurse midwife who shall have two hours of training in the following:

008.02A1a Procedures for dispensing initial prescriptions and authorized refills of oral contraceptives;

008.02A1b Procedures for dispensing approved drugs and devices;

008.02A1c Federal and State laws regarding drug dispensing;

008.02A1d Proper labeling of oral contraceptives and approved drugs and devices;

008.02A1e Proper record keeping of initial and refilled prescriptions;

008.02A1f Use of Volumes I and II of the United States Pharmacopeia-Drug Information;

008.02A1g Proper pharmacist referral;

008.02A1h Procedures for reaching the consultant or the on-call pharmacist;

008.02A1i Storage and security of approved formulary drugs and devices; and

008.02A1j Patient information.

008.02A2 Persons licensed as a registered nurse or licensed practical nurse who are not certified as a nurse practitioner or nurse midwife shall have eight hours of training in the following:

008.02A2a Procedures for dispensing initial prescriptions and authorized refills of oral contraceptives;

008.02A2b Procedures for dispensing approved drugs and devices;

008.02A2c Federal and State laws regarding drug dispensing;

008.02A2d Proper labeling of oral contraceptives and approved drugs and devices;

008.02A2e Proper record keeping of initial and refilled prescriptions;

008.02A2f The actions, drug interactions, and effects of oral contraceptives and approved drugs and devices;

008.02A2g Use of Volumes I and II of the United States

008.02A2h Proper pharmacist referral;

008.02A2i Procedures for reaching the consultant or the on-call pharmacist.

008.02A2j Storage and security of approved formulary drugs and devices; and

008.02A2k Patient information.

008.02A3 Persons who are public health clinic workers shall have six hours of classroom training in the following:

008.02A3a Procedures for dispensing authorized refills of oral contraceptives;

008.02A3b Federal and State laws regarding drug dispensing;

008.02A3c Proper labeling of refills for oral contraceptives;

008.02A3d Proper record keeping of refilled prescriptions for oral contraceptives;

008.02A3e The actions, drug interactions, and effects of oral contraceptives;

008.02A3f Use of Volumes I and II of the United States Pharmacopeia-Drug Information;

008.02A3g Proper pharmacist referral;

008.02A3h Procedures for reaching the consultant or the on-call pharmacist;

008.02A3i Storage and security of approved formulary drugs and devices; and

008.02A3j Patient information.

008.02A4 After the initial training has been completed, persons who are public health clinic workers shall have an annual two hour inservice regarding oral contraceptives.

008.02B Documentation of Training. Documentation of attendance of all training shall be maintained in the employee's personnel file and in the public health clinic's policy and procedure manual. It is the responsibility of the public health clinic and the consultant pharmacist to assure that the appropriate training of staff has occurred prior to the dispensing of any drugs and devices and to assure that documentation of training has been completed.

008.03 Proficiency demonstration requirements. Following training, public health clinic workers must demonstrate proficiency as follows:

008.03A The public health clinic worker shall demonstrate proficiency, to the consultant pharmacist at least annually or as requested by the consultant pharmacist.

008.03B The public health clinic worker shall be supervised by one of the licensed or certified health care professionals trained to dispense drugs for the first month that the public health clinic worker dispenses authorized refills of oral contraceptives.

008.03C Completed proficiency demonstrations shall be documented in the employee's personnel file and in the public health clinic's policy and procedure manual.

009 STANDARDS FOR THE DISPENSING OF LEGEND DRUGS AND DEVICES IN A PUBLIC HEALTH CLINIC WITH A DRUG DISPENSING PERMIT

009.01 Consultant Pharmacist Requirement and Duties. All public health clinics which dispense legend drugs and devices pursuant to a drug dispensing permit shall have an actively practicing pharmacist with an unrestricted Nebraska license listed as the consultant pharmacist on the permit.

009.01A The consultant pharmacist shall perform and document the following:

009.01A1 That he or she is physically in the public health clinic at least once every thirty (30) days;

009.01A2 That he or she conducts monthly inspections of the environment, inventory, record keeping of all drugs and devices received, stored or dispensed by the public health clinic, storage, security, dispensing and labeling procedures of all drugs and devices;

009.01A3 That he or she approves and maintains a policy and procedure manual governing the storage, control, distribution and dispensing of drugs and devices within the public health clinic as set out in Subpart 004.01A13 of these regulations;

009.01A4 That he or she approves supplemental information and instructions regarding approved formulary drugs and devices dispensed to patients;

009.01A5 That he or she approves the proficiency of public health clinic workers at the public health clinic for the dispensing of authorized refills of oral contraceptives at least annually;

009.01A5a Documentation of proficiency shall be maintained in the employee's personnel file and the policy and procedure manual.

009.01A6 That he or she approves training of public health clinic workers; and

009.01A7 That he or she will report any discrepancies in the inventory of the public health clinic with a drug dispensing permit to the Board of Pharmacy and the administrator of the public health clinic.

009.02 Liability. The public health clinic for which a public health clinic worker is working shall be liable for acts or omissions on the part of the public health clinic worker; except

009.02A The consultant pharmacist shall not be held liable for acts or omissions on the part of a public health clinic worker or of licensed or certified health care staff nor shall the on-call pharmacist be held liable for such acts except as stated in Subsection 010.08 of these regulations.

009.03 Requirements for Dispensing Legend Drugs and Devices. Only approved formulary drugs and devices may be dispensed from a public health clinic holding a drug dispensing permit; and shall be dispensed by a pharmacist, other health care professional or public health clinic worker pursuant to a written prescription generated at a public health clinic where the patient's written records are maintained.

009.03A The prescription shall contain the following:

009.03A1 Date of issuance;

009.03A2 Name of patient;

009.03A3 Name of prescriber;

009.03A4 Name, strength, dosage form, and quantity of the drug;

009.03A5 Number of refills authorized for oral contraceptives only;

009.03A5a In no event shall refills be authorized for greater than one (1) year from the date of issuance of the original prescription; and

009.03A6 Directions for use by patient.

009.04 Dispensing when Pharmacist not onsite. If a pharmacist is not onsite but he or she is available as defined in Subsection 002.03 of these regulations, another health care professional or a public health clinic worker may dispense approved formulary drugs and devices under a drug dispensing permit, provided:

009.04A The initial dispensing of all prescriptions for approved formulary drugs and devices are dispensed by a pharmacist or other health care professional pursuant to a prescription written by a medical practitioner; and

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009.04B The public health clinic worker only dispenses authorized refills of oral contraceptives.

009.05 Dispensing by Pharmacist When dispensing a legend drug or device under a drug dispensing permit:

009.05A A pharmacist shall:

009.05A1 Receive and interpret the written prescription including refill authorization;

009.05A1a Only prescriptions for oral contraceptives may be refilled.

009.05A2 Prepare the prescription by counting or pouring;

009.05A3 Dispense the drug product or device in a suitable container; and

009.05A4 Affix the proper label to the container as prescribed in Subsection 009.06 and 009.07 of these regulations.

009.05B Other health care professionals shall perform the duties set out in Subsections 009.05A1 and 009.05A1a of these regulations.

009.06 Packaging Requirements of Drugs and Devices. All drugs or devices dispensed from a public health clinic with a drug dispensing permit are to be prepackaged by the manufacturer or a pharmacist on-site into the quantity to be prescribed and dispensed at the public health clinic.

009.06A All drugs and devices stored, received, or dispensed shall be properly labeled at all times. Properly labeled shall mean that the label is printed and affixed to the container prior to dispensing and contains the following information:

009.06A1 The name, address and phone number of the public health clinic;

009.06A2 The name of the manufacturer;

009.06A3 The lot number and expiration date from the manufacturer or;

009.06A3a If prepackaged by a pharmacist, the lot number and calculated expiration date;

009.06A3a(1) Calculated expiration date shall mean an expiration date on the prepackaged product which is neither greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging.

009.06A4 Directions for patient use;

009.06A5 The quantity of drug inside the prescription container;

009.06A6 The name, strength, and dosage form of the drug; and

009.06A7 Auxiliary labels as needed for proper drug use, storage and compliance.

009.07 Dispensing by other Health Care Professionals. When the drug or device is dispensed by a health care professional other than a pharmacist, or when a refill of an oral contraceptive is refilled by a public health clinic worker, the following additional information printed in typewritten form shall be added to the label of each prescription container:

009.07A The patient's name;

009.07B The name of the prescribing health care professional;

009.07B1 When the prescribing health care professional is a physician assistant, the label shall bear the name of his or her supervising physician,

009.07C The consecutive prescription number; and

009.07D The date dispensed.

009.08 Patient Instructions. Dispensed prescriptions are to be accompanied by patient instructions and written information approved by the Director.

009.09 Availability of Consultant Pharmacists. At any time that dispensing is occurring from the public health clinic with a drug dispensing permit, the consultant pharmacist or any other actively practicing pharmacist licensed to practice pharmacy in Nebraska must be available, either in person or by telephone, to answer questions from clients, staff, public health clinic workers, or volunteers.

009.09A The consultant pharmacist or on-call pharmacist shall inform the public health clinic if he or she will not be available during the time that his or her availability is required and such notification shall be documented by the public health clinic and the pharmacist.

009.10 Nonavailability of Consultant Pharmacists. If a pharmacist is not available, dispensing is prohibited.

009.11 Container Requirements for Prescriptions. All new and refilled prescriptions shall be packaged in new sanitary containers before they are dispensed; original unopened containers as received from the manufacturer, distributor or packer may be utilized provided the pharmacist ensures all labeling requirements that are specified in Subsections 009.06 and 009.07 of these regulations are met.

009.12 Prescription and Prescribed Medical Articles Returns. In order to protect the public health, a public health clinic with a drug dispensing permit is prohibited from accepting for refund or any other purpose the following items:

009.12A Unused portions of dispensed prescriptions;

009.12B Prescribed devices or products used upon or applied to the human body, except;

009.12B1 Those defective prescribed drugs, prescribed devices or products sold under warranty or guaranteed by the manufacturer, supplier, or wholesaler which must be returned by the retailer before a refund will be issued to the consumer or user; and

009.12B2 Those prescribed drugs which are voluntarily recalled by manufacturers or that are recalled by order of the Federal Food and Drug Administration.

009.13 Inventory Requirements. A pharmacist shall ensure that the inventory of all drugs and devices in the public health clinic with a drug dispensing permit have affixed to them the original manufacturer's, distributor's or packer's label.

009.14 Misbranded Drugs. Information contained on all labels and packages shall be complete, true and accurate. A pharmacist shall ensure that the inventory of all drugs in the drug dispensing area, have affixed to them the original manufacturer's, distributor's, or packer's label which list the drug name, strength, dosage form, expiration date, and lot number.

009.14A Drugs stored in the drug dispensing area shall be deemed misbranded if they are not labeled as specified in Subsection 009.06 of these regulations:

009.14B Drugs dispensed to patients under a drug dispensing permit shall be deemed misbranded if they are not labeled as specified in Subsections 009.06 and 009.07 of these regulations.

009.15 Recordkeeping of Drugs and Devices Dispensed Pursuant to a Prescription

009.15A Recordkeeping for Prescriptions. A public health clinic with a drug dispensing permit shall maintain records of all drugs and devices dispensed by using a recordkeeping system which allows for prescription information to be readily retrievable and in a form which provides a concise, accurate and comprehensive method of monitoring dispensing. Such system shall document the following for each drug or device dispensed:

009.15A1 Name of patient;

009.15A2 Consecutive prescription serial number;

009.15A3 Date of filling of the prescription;

009.15A4 Name, strength and dosage form of drug or device;

009.15A5 Directions for use by patient;

009.15A6 Quantity dispensed;

009.15A7 Prescriber's name;

009.15A8 Initials of dispenser; and

009.15A9 Documentation of the number of refills authorized for oral contraceptives and the number of refills dispensed.

009.15B A public health clinic with a drug dispensing permit shall maintain a single file of this prescription information.

009.15C The public health clinic with a drug dispensing permit shall maintain records of all drugs and devices dispensed for two (2) years.

009.15D If an automated recordkeeping system is utilized there must be a complete backup every seven (7) working days, that is verifiable to prevent loss of dispensing records.

009.15E When an automated system is used and it becomes inoperable, dispensing transactions occurring during this period of inoperability must be entered into the system when the system becomes operable.

009.15F When an automated system is used and requires storage of dispensing records after a certain time period, such system must be capable of producing the stored data within forty-eight (48) hours or two (2) working days upon request of the representatives of the Department.

009.16 Refill Requirements and Limitations. All prescription refills for oral contraceptives must be authorized in writing by the prescriber.

009.16A A prescription for an oral contraceptive shall not be refilled without specific refill limitations as indicated by the medical practitioner.

010 Procedures for Issuing and Renewing Drug Dispensing Permits

010.01 Initial Permits. All initial drug dispensing permits issued by the Department shall expire one year from the date of issuance.

010.02 Renewed Permits. All renewed drug dispensing permits shall expire one year from the date of issuance. Any permittee who wishes to continue dispensing drugs shall renew the drug dispensing permit by following the procedures below.

010.02A The Department shall send an annual inspection fee notice to the permittee's address of record at least thirty (30) days prior to the permit's expiration date. The notice shall specify:

010.02A1 The name of the permittee;

010.02A2 The permit number;

010.02A3 The expiration date of the permit; and

010.02A4 The annual inspection fee of \$75.00.

010.02B The permittee shall submit to the Department:

010.02B1 The annual inspection fee of \$75.00; and

010.02B2 The annual inspection notice.

010.02C The Department shall send to each permittee who fails to renew the drug dispensing permit a second annual inspection notice. Such notice shall specify:

010.02C1 That the permittee failed to pay the annual inspection fees;

010.02C2 That the drug dispensing permit has expired;

010.02C3 That the Department will suspend action for thirty (30) days following the date of expiration;

010.02C4 That upon receipt of the annual inspection fee, the Department shall issue the renewed drug dispensing permit; and

010.02C5 That upon failure to receive the amount then due the drug dispensing permit will be revoked as specified in Subsection 010.03 of these regulations.

010.02D The permittee shall submit to the Department:

010.02D1 The annual inspection notice; and

010.02D2 The annual inspection fee.

010.03 Revocation for Failure to Pay the Annual Inspection Fee. When any permittee fails, within thirty (30) days of expiration of the drug dispensing permit, to pay the annual inspection fee, the Department shall determine to deny, revoke, suspend, or refuse renewal of a drug dispensing permit.

010.03A The Department shall send the permittee, by certified mail, a notice setting forth the particular reasons for the determination.

010.03B The denial, suspension, revocation, or refusal of renewal shall become final thirty (30) days after the mailing of the notice unless the permittee, within such thirty (30) day period, requests a hearing in writing.

010.03C The permittee shall be given a fair hearing before the Department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the findings of facts and the particular reasons upon which it is based shall be sent by certified mail to the permittee.

010.03D The decision shall become final thirty (30) days after a copy of such decision is mailed unless the permittee within such thirty (30) day period appeals the decision pursuant to Neb. Rev. Stat. §71-1, 147.12.

010.03E Hearings before the Department shall be conducted in accordance with Neb. Rev. Stat. Chapter 84, Article 9 and 184 NAC 1, the Rules of Practice and Procedure for the Department.

010.04 The Department may refuse or deny an application for a drug dispensing permit for any one or a combination of the following reasons:

010.04A Conviction of Permittee of any crime involving moral turpitude;

010.04B Obtaining a drug dispensing permit by false representation or fraud;

010.04C Operating a public health clinic with a drug dispensing permit without a consultant pharmacist responsible for the duties specified in Subsection 009.01 of these

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regulations;

010.04D Failure to pass an initial or annual inspection;

010.04E Failure to pay inspection costs;

010.04F Failure to pay any fee required by Sections 003 and 010 of these regulations;

010.04G Use of unauthorized persons in the dispensing or administration of drugs or devices;

010.04H The compounding and dispensing of drugs or devices or the filling of a prescription by a person other than a licensed pharmacist or by an intern in pharmacy, without the presence of and the immediate personal supervision of a licensed pharmacist except as provided in Neb. Rev. Stat. §71-1,147.33 or in Sections 008 and 009 of these regulations;

010.04I The dispensing of any drug or device not listed in the approved formulary or failure to provide patient information;

010.04J A conviction of a violation of Neb. Rev. Stat. §§71-1,142 to 71-1,147.61 and these regulations or of a felony or, if a natural person, the revocation or suspension of a drug dispensing permit;

010.04K Unprofessional conduct which shall include, but not be limited to:

010.04K1 Misrepresentation or fraud in the conduct of a public health clinic;

010.04K2 Aiding or abetting an unlicensed person to practice pharmacy;

010.04K3 The dispensing without a prescription of a drug or device which under state or federal law or regulation is prohibited from being dispensed without a prescription or the renewal of such a prescription without the authorization of the prescriber; or

010.04K4 The dispensing of a different drug or device in place of the drug or device ordered or prescribed without the express permission of the person ordering or prescribing the same;

010.04L Violation of the rules and regulations governing the practice of pharmacy as adopted and promulgated under authority of Neb. Rev. Stat. §71-1,147.09 by the Department; and

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010.04M Suggesting, soliciting, ordering, assisting, or abetting a pharmacist in the commission of any of the offenses set forth in Neb. Rev. Stat. §71-147 and 71-148.

010.05 A permittee shall not dispense drugs or devices after a permit is revoked or during the time for which the permit is suspended.

010.05A If a permit is suspended, the suspension shall be for a definite period of time to be fixed by the Director.

010.05B The permit shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid.

010.06 If the permit is revoked, the revocation shall be permanent, except that at any time after the expiration of two years, application may be made for reinstatement by any permittee whose permit has been revoked.

010.06A The application shall be addressed to the Director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the Board.

010.07 A petition for the revocation or suspension of a drug dispensing permit may be filed by the Attorney General or by the county attorney in the county in which the permittee resides or is operating a public health clinic.

010.07A The petition shall:

010.07A1 Be filed with the Board;

010.07A2 Be entitled "In the Matter of the Revocation (or suspension) of the Permit of (name of permittee) to dispense drugs and devices; and

010.07A3 State the charges against the permittee with reasonable definiteness.

010.07B Upon approval of such petition by the Board, it shall be forwarded to the Department which shall make an order fixing a time and place for hearing thereon, which shall not be less than ten days nor more than thirty days thereafter.

010.07B1 Notice of the filing of such petition and the time and place of hearing shall be served upon the permittee at least ten (10) days before such hearing.

010.08 When appropriate, the Attorney General upon the recommendation of the Board, shall initiate criminal charges against pharmacists, public health clinic administrators, or other persons who knowingly permit public health clinic workers to perform professional duties which require the expertise or professional judgment of a pharmacist.

010.09 Hearing Procedures. If the Department determines to deny an application for a drug dispensing permit or to revoke, suspend, or refuse renewal of a permit, it shall send to the applicant or permittee by certified mail, a notice setting forth the particular reasons for the determination.

010.09A The denial, suspension, revocation or refusal of renewal shall become final thirty (30) days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing.

010.09B The applicant or permittee shall be given a fair hearing before the Department and may present such evidence as may be proper.

010.09C On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the permittee.

010.09D The decision shall become final thirty (30) days after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to Subsection 010.10 of these regulations.

010.09E The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the Department as 184 NAC 1.

010.09F A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations adopted and promulgated by the Department. The proceedings shall be summary in nature and triable as equity actions. Affidavits may be received in evidence in the discretion of the Director of Health.

010.09G The Department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party.

010.09H Upon the completion of any hearing, the Director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers:

010.09H1 Issue a censure or reprimand against the permittee;

010.09H2 Suspend judgment;

010.09H3 Place the permittee on probation;

010.09H4 Place a limitation or limitations on the permit and upon the right of the permittee to dispense drugs or devices to the extent, scope, or type of operation, for such time, and under such conditions as the Director finds necessary and proper. The Director shall consult with the Board in all instances prior to issuing an order of limitation.

010.09H5 Impose a civil penalty not to exceed ten thousand (10,000) dollars. The amount of the civil penalty, if any, shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any;

010.09H6 Enter an order of suspension of the permit;

010.09H7 Enter an order of revocation of the permit; and

010.09H8 Dismiss the action.

010.10 Appeals. Any applicant or permittee shall have the right of appeal from an order of the Department denying, revoking, suspending, or refusing renewal of a drug dispensing permit. The appeal shall be in accordance with the Administrative Procedure Act.

011 PROCEDURES FOR REINSTATEMENT OF DRUG DISPENSING PERMITS

011.01 Reinstatement After Disciplinary Action. A drug dispensing permit which has been suspended or revoked for disciplinary action, may be reinstated by the Department upon the recommendation of the Board.

011.01A A public health clinic whose drug dispensing permit has been suspended for disciplinary action, shall be suspended for a definite period of time to be fixed by the director and shall be automatically reinstated upon the expiration of such period, if the current inspection fees have been paid.

011.01B A public health clinic whose drug dispensing permit has been revoked for disciplinary action shall be revoked permanently, except that at any time after the expiration of two (2) years, petition may be made for reinstatement.

011.01B1 The petitioner must submit:

011.01B1a A verified completed petition for reinstatement on a form provided by the Department, a copy of which is attached as Attachment F and incorporated in these regulations by this reference; and

011.01B1b The required fee.

012 PROCEDURES FOR PROCESSING A COMPLAINT. Any complaint filed against a public health clinic or any staff member, public health clinic worker, volunteer, or consultant in association with work performed under a drug dispensing permit shall be screened by the Department to determine its validity in accordance with procedures as prescribed in Neb. Rev. Stat. 71-168.01.

012.01 If the complaint is valid, the cost of investigating the complaint shall be based upon the actual costs incurred and shall be borne by the public health clinic.

012.02 If the complaint is found not to be valid, the cost of the investigation shall be paid from the Nebraska Pharmaceutical Fund.

013 GROUNDS FOR DENIAL, REVOCATION, SUSPENSION OR REFUSAL TO RENEW.

013.01 The Department shall deny any application for a drug dispensing permit when an applicant fails to meet the requirements in Section 003 and 004 of these regulations or is found to be in violation of any of the provisions of Subsection 013.03 of these regulations.

013.02 The Department shall refuse renewal of a drug dispensing permit if the permittee fails to meet the requirements specified in Section 005 of these regulations or is found to be in violation of any of the provisions in Subsection 013.03 of these regulations.

013.03 The Department may deny, refuse renewal of, suspend, or revoke a drug dispensing permit for any of the following grounds:

013.03A Conviction of permittee of any crime involving moral turpitude;

013.03B Obtaining a drug dispensing permit by false representation or fraud;

013.03C Operating a public health clinic with a drug dispensing permit without a consultant pharmacist responsible for the duties in Subsection 009.01 of these regulations;

013.03D Failure to pass an initial or annual inspection;

013.03E Failure to pay inspection costs;

013.03F Failure to pay any fee required by Sections 003 and 010 of these regulations;

013.03G Use of unauthorized persons in the dispensing or administering of drugs or devices;

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013.03H The compounding and dispensing of drugs or devices or the filling of a prescription by a person other than a licensed pharmacist or by an intern in pharmacy, without the presence of and the immediate personal supervision of a licensed pharmacist except as provided in Neb. Rev. Stat. §71-1,147.33 or Sections 008, 009 and 010 of these regulations;

013.03I The dispensing of any drug or device not listed in the approved formulary or failure to provide patient information;

013.03J A conviction of a violation of Neb. Rev. Stat. §§ 71-1,142 to 71-1,147.61 and Section 010 of these regulations or of a felony or, if a natural person, the revocation or suspension of a drug dispensing permit;

013.03K Unprofessional conduct which shall include but not be limited to:

013.03K1 Misrepresentation or fraud in the conduct of a public health clinic;

013.03K2 Aiding or abetting an unlicensed person to practice pharmacy;

013.03K3 The dispensing without a prescription of a drug or device which under state or federal law or regulation is prohibited from being dispensed without a prescription or the renewal of such a prescription without the authorization of the prescriber; or

013.03K4 The dispensing of a different drug or device in place of the drug or device ordered or prescribed without the express permission of the person ordering or prescribing the same;

013.03L Violation of the rules and regulations governing the practice of pharmacy as adopted and promulgated under authority of Neb. Rev. Stat. §71-1,147.09 by the Department; and

013.03M Suggesting, soliciting, ordering, assisting, or abetting a pharmacist in the violation of any of the offenses set forth in Neb. Rev. Stat. §§71-147 and 71-148.

013.04 If the Department determines to deny, revoke, suspend, or refuse renewal of a drug dispensing permit, it shall send the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination.

013.05 The denial, suspension, revocation, or refusal of renewal shall become final thirty (30) day after the mailing of the notice unless the applicant or permittee, within such thirty (30) day period, requests a hearing in writing.

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013.06 The applicant or permittee shall be given a fair hearing before the Department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the findings of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or permittee.

013.07 The decision shall become final thirty (30) days after a copy of such decision is mailed unless the applicant or permittee within such thirty (30) day period appeals the decision pursuant to Neb. Rev. Stat. §71-1,147.12.

013.08 Hearings before the Department shall be conducted in accordance with Neb. Rev. Stat. Chapter 84, Article 9 and 184 NAC 1, the Rules of Practice and Procedure for the Department.

Effective Date
June 23, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 137

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 137 LICENSURE OF PHYSICAL THERAPY

137-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Physical Therapy under Neb. Rev. Stat. §§ 38-2901 to 38-2929 and the Uniform Credentialing Act (UCA). Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, including cauterization.

137-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 38-2901 to 38-2929 known as the Physical Therapy Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Adequate Patient Records means legible records that contain at a minimum:

1. Sufficient information to identify the patient;
2. An evaluation of objective findings;
3. A plan of care;
4. A treatment record; and
5. A discharge plan.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved Educational Program means a program for the education and training of physical therapists and physical therapist assistants approved by the Board based on the program's accreditation by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association (APTA) or by equivalent standards established by the Board.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

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Audit means the selection of licensees or certificate holders for verification of satisfactory completion of continuing competency requirements during a specified time period.

Board means the Board of Physical Therapy.

CAPTE means the Commission on Accreditation in Physical Therapy Education.

Certificate means an authorization issued by the Department that gives a person the right to use a protected title that only a person who has met specific requirements may use.

Certification Examination means the National Physical Therapist Assistant Examination and Jurisprudence (NE LAW) Examination approved by the Department on the recommendation of the Board.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing Competency Activities means those appropriate learning experiences physical therapists and physical therapist assistants undertake to expand their scope of knowledge beyond the basic preparation for the profession of physical therapy.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:

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- a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
- b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Direct supervision means supervision in which the supervising practitioner is physically present and immediately available and does not include supervision provided by means of telecommunication.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

FSBPT means Federation of State Boards of Physical Therapy.

General supervision means supervision either onsite or by means of telecommunication.

Hour as it relates to continuing education means at least 60 minutes of participation in an organized learning experience otherwise known as a "contact hour."

1. One academic semester hour is equal to 15 contact hours: An approved three credit hour course provides 45 contact hours of continuing education credit; and
2. One academic quarter hour is equal to ten contact hours: An approved three credit hour course provides 30 contact hours of continuing education credit.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

Intervention means a therapeutic procedure defined by the Current Procedural Terminology (CPT) manual of the American Medical Association.

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Jurisdiction of the United States means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.

Jurisprudence (NE LAW) Examination means the Nebraska Physical Therapy Law Examination covering the laws governing the practice of physical therapy in Nebraska. This examination covers: the Regulations relating to the Practice of Physical Therapy, 172 NAC 137; the Statutes relating to Physical Therapy, Neb. Rev. Stat. §§ 38-2901 to 38-2929; the Uniform Credentialing Act, Neb. Rev. Stat. §§ 38-101 to 38-1,140; and the Statutes Relating to Medical Records, §§ 71-8401 to 71-8407.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensure Examination means the National Physical Therapist Examination and Jurisprudence (NE LAW) Examination approved by the Department on the recommendation of the Board.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

Mobilization or Manual Therapy means a group of techniques comprising a continuum of skilled passive movements to the joints or related soft tissues, or both, throughout the normal physiological range of motion that are applied at varying speeds and amplitudes, without limitation.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 137.

Non-treatment-related tasks means clerical, housekeeping, facility maintenance, or patient transportation services related to the practice of physical therapy.

Official means received directly from the issuing agency.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Physical therapy or Physiotherapy means:

1. Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations, and disabilities or other conditions related to health and movement and, through analysis of the evaluative process, developing a plan of therapeutic intervention and prognosis while assessing the ongoing effects of the intervention;

2. Alleviating impairment, functional limitation, or disabilities by designing, implementing, or modifying therapeutic interventions, which does not include the making of a medical diagnosis, but which may include any of the following:
 - a. Therapeutic exercise;
 - b. Functional training in home, community, or work integration or reintegration related to physical movement and mobility;
 - c. Therapeutic massage;
 - d. Mobilization or manual therapy;
 - e. Recommendation, application, and fabrication of assistive, adaptive, protective, and supportive devices and equipment;
 - f. Airway clearance techniques;
 - g. Integumentary protection techniques;
 - h. Non-surgical debridement and wound care;
 - i. Physical agents or modalities;
 - j. Mechanical and electrotherapeutic modalities; and
 - k. Patient-related instruction.
3. Purchasing, storing, and administering topical and aerosol medication in compliance with applicable rules and regulations of the Board of Pharmacy regarding the storage of such medication;
4. Reducing the risk of injury, impairment, functional limitation, or disability, including the promotion and maintenance of fitness, health, and wellness; and
5. Engaging in administration, consultation, education, and research.

Physical Therapist means a person licensed to practice physical therapy under the Act.

Physical Therapist Assistant means a person certified as a physical therapist assistant under the Act.

Physical Therapy Aide means a person who is trained under the direction of a physical therapist and who performs treatment-related and non-treatment-related tasks.

Plan of Care means plans of therapeutic intervention utilizing APTA guidelines.

Practice Site means the location where the physical therapist provides physical therapy services.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Satellite Office means a practice site operating without the presence of a physical therapist.

Semester Credit Hour means a semester credit that must include at a minimum:

1. 15 hours of lecture;
2. 30 hours of laboratory; or
3. 48 hours of clinical education.

Served in the regular armed forces has the same meaning as "military service" in these regulations.

Student means a person enrolled in an approved educational program.

Supervisory visit means an on-site visit by the supervising physical therapist in consultation with the physical therapist assistant. The on-site visit may occur in any clinical setting where the supervising physical therapist renders patient care.

Telecommunications means a land phone-line, cellular phone service, pager, video teleconference or any similar teleconferencing that will allow immediate response time. Facsimile and electronic mail are not defined as telecommunications due to inadequate response time.

Testing means standard methods and techniques used to gather data about a patient. Testing includes surface electromyography and, subject to approval of the Board, fine wire electromyography. Testing excludes diagnostic needle electromyography.

Treatment-related tasks means activities related to the practice of physical therapy that do not require the clinical decision making of a physical therapist or the clinical problem solving of a physical therapist assistant.

137-003 INITIAL CREDENTIAL FOR A PHYSICAL THERAPIST LICENSE

137-003.01 Qualifications: To receive a credential to practice as a physical therapist, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For the purposes of the Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States, who is eligible for a credential under the Uniform Credential Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education:
 - a. Have graduated from an approved physical therapist educational program; or
 - b. Have met the requirements of training as a physical therapist in a foreign country and English proficiency requirements pursuant to 172 NAC137-004.
4. Examination:
 - a. Pass the licensure examination with a scaled score that is greater than or equal to 600 on the National Physical Therapist Examination; and
 - b. Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.
5. License in Another Jurisdiction and is Currently Practicing: An applicant for a license to practice as a physical therapist on the basis of licensure in another jurisdiction and meets the qualifications listed in 172 NAC 137-003.01 items 1, 2, 3, and 4.

6. License in Another Jurisdiction and has not Practiced Within the Three Years Preceding the Application: The applicant must meet the qualifications listed in 172 NAC 137-003.01 items 1, 2, 3, and 4 and the following:
 - a. Retake the licensure examination and pass with a scaled score that is greater than or equal to 600 on the National Physical Therapist Examination; and
 - b. Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.
7. Passed the Licensure Examination But is Not Practicing: If an applicant meets the requirements as listed in 172 NAC 137-003.01 items 1, 2, 3, 4 and passed the licensure examination more than three years prior to the time of application for licensure; s/he will need to:
 - a. Retake the licensure examination and pass with a scaled score that is greater than or equal to 600 on the National Physical Therapist Examination; and
 - b. Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.

137-003.02 Application: To apply for a credential to practice as a physical therapist, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced as a physical therapist in Nebraska before submitting the application; or
 - (2) If s/he has practiced as a physical therapist in Nebraska before submitting the application, the actual number of days practiced in

Nebraska before submitting the application for a credential and the name and location of practice;

- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 137-015 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For the purposes of Neb. Rev. Stat. §38-129;
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credential Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;

- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
 - (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For the purposes of Neb. Rev. Stat. §38-129; a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or

- (14) A Form I-94 (Arrival-Departure Record);
 - e. Documentation of education, including:
 - (1) Name and date of diploma/degree awarded; and
 - (2) Name of school, college, university that awarded the diploma/degree.
 - f. Documentation of examination, including:
 - (1) Name of examination;
 - (2) Date of examination; and
 - (3) Rating/grade received; and
 - g. Documentation that the applicant:
 - (1) Requested that the examination score for the National Physical Therapist Examination be sent directly to the Department from the appropriate examination service or State Board Office;
 - (2) Submitted a completed request for special accommodations, if special testing accommodations are needed by the applicant; and
 - (3) Submitted any other documentation as requested by the Board/Department; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

137-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

137-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

137-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 137-015, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

137-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

137-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 137-018 or such other action as provided in the statutes and regulations governing the credential.

137-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

137-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

137-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

137-004 INITIAL CREDENTIAL FOR A PHYSICAL THERAPIST LICENSE BASED ON TRAINING AS A PHYSICAL THERAPIST IN A FOREIGN COUNTRY

137-004.01 Qualifications: An applicant for a license to practice physical therapy on the basis of training as a physical therapist in a foreign country must have met the qualifications outlined in 172 NAC 137-003.01, items 1 through 4; and items 5 through 7, whichever is applicable. The applicant must also meet the following requirements:

1. Have completed a program of professional instruction that is substantially equivalent to an approved educational program. A substantially equivalent program of professional instruction is one that consists of those components specified in one of the following Federation of State Boards of Physical Therapy (FSBPT) Coursework tools. The appropriate FSBPT Coursework Tool to be used by the credentialing agency will be determined by the year the foreign trained physical therapist graduated from his/her foreign program of professional instruction. The credit hours required for general education may be obtained through the College Level Examination Program (CLEP).
 - a. Coursework Tool For Foreign Educated Physical Therapists Who Graduated before 1978 CWT 1.
 - b. Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1978 to 1991 CWT 2.
 - c. Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1992 to 1997 CWT3.
 - d. Coursework Tool For Foreign Educated Physical Therapists who Graduated from 1998 to June 30, 2009 CWT 4.
 - e. Coursework Tool For Foreign Educated Physical Therapists who Graduated after June 30, 2009 CWT 5.
2. Have proficiency in the English language:
 - a. The following applicants are deemed to be proficient in the English Language:

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- (1) Graduates of physical therapy programs from Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, and the United States; and
 - (2) Graduates from programs accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE);
- b. Obtain a passing score on one of the following examinations administered by Educational Testing Service which measures proficiency in the English language:
- (1) Test of English as a Foreign Language (TOEFL), paper pencil format, with a minimum passing score of 560; Test of Written English (TWE), paper pencil format, with a minimum passing score of 4.5; and Test of Spoken English (TSE), paper pencil format with a minimum passing score of 50; or
 - (2) Internet Based English Language Proficiency Test, TOEFL iBT with the minimum passing scores as follows:

Reading Comprehension	21
Listening Comprehension	18
Writing Comprehension	24
Speaking Comprehension	26
Total score	89; or
- c. Hold an official U.S. Citizenship and Immigration Services' Health Care Worker Certification issued no more than five years immediately preceding the date of the application by one of the following agencies.
- (1) Foreign Credentialing Commission of Physical Therapy (FCCPT); or
 - (2) Commission on Graduates of Foreign Nursing Schools (CGFNS).
3. Submit to the Department:
- a. Documentation of the applicant's educational credentials prepared by one of the following accrediting agencies:
 - (1) International Consultants of Delaware, Inc.;
 - (2) International Credentialing Association, Inc.;
 - (3) International Education Research Foundation, Inc.; or
 - (4) Foreign Credentialing Commission on Physical Therapy.

The credentialing agency must base their evaluation of the applicant's program of professional instruction on the requirements set out in 172 NAC 137-004, item 1;
 - b. An official transcript(s) of the training the physical therapist completed in a foreign country; and
 - c. One of the following documents that proves proficiency in the English language:

- (1) Proof of graduation from a physical therapy program pursuant to 172 NAC 137-004 item 2a;
- (2) Official documentation from the Educational Testing Service showing the passing scores on the examination outlined in 172 NAC 137-004 item 2b; or
- (3) Official U.S. Citizenship and Immigration Services' Health Care Worker Certification issued no more than five years immediately preceding the date of the application.

137-004.02 Application: To apply for a credential to practice as a physical therapist, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);

b. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced as a physical therapist in Nebraska before submitting the application; or
- (2) If s/he has practiced as a physical therapist in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;

c. Attestation: The applicant must attest that:

- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete;
- (3) S/he is of good character;

- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 137-015 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For the purposes of Neb. Rev. Stat. §38-129:
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credential Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;

- (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For the purposes of Neb. Rev. Stat. §38-129; a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card);
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
- (1) Name and date of diploma/degree awarded; and

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- (2) Name of school, college, university that awarded the diploma/degree.
 - f. Documentation of examination, including:
 - (1) Name of examination;
 - (2) Date of examination; and
 - (3) Rating/grade received; and
 - g. Documentation that the applicant:
 - (1) Requested that the examination score for the National Physical Therapist Examination and the Jurisprudence (NE LAW) Examination be sent directly to the Department from the appropriate examination service or State Board Office if applicable;
 - (2) Submitted a completed request for special accommodations, if special testing accommodations are needed by the applicant; and
 - (3) Submitted any other documentation as requested by the Board/Department; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

137-004.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

137-004.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

137-004.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 137-015, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

137-004.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

137-004.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 137-018 or such other action as provided in the statutes and regulations governing the credential.

137-004.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

137-004.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

137-004.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

137-005 INITIAL CREDENTIAL FOR A PHYSICAL THERAPIST ASSISTANT CERTIFICATE:

137-005.01 Qualifications: To receive a credential to practice as a physical therapist assistant, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For the purposes of the Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States, who is eligible for a credential under the Uniform Credential Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education:
 - a. Have graduated from an approved physical therapist assistant educational program.
4. Examination:
 - a. Pass the certification examination with a scaled score that is greater than or equal to 600 on the National Physical Therapist Assistant Examination; and
 - b. Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.
5. Credential As A Physical Therapist Assistant in Another Jurisdiction and is Currently Practicing: An applicant for a certification to practice as a physical therapist assistant on the basis of licensure in another jurisdiction and meets the qualifications listed in 172 NAC 137-005.01 items 1, 2, 3, and 4.

6. Credential As a Physical Therapist Assistant in Another Jurisdiction and Has Not Practiced Within the Three Years Preceding the Application: The applicant must meet the qualifications listed in 172 NAC 137-005.01 items 1, 2, 3, and 4 and the following:
 - (1) Retake the certification examination and pass with a scaled score that is greater than or equal to 600 on the National Physical Therapist Assistant Examination; and
 - (2) Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.

7. Passed the Certification Examination But is Not Practicing: If an applicant meets the requirements as listed in 172 NAC 137-005.01 items 1, 2, 3, 4 and passed the certification examination more than three years prior to the time of application for certification; s/he will need to:
 - (1) Retake the certification examination and pass with a scaled score that is greater than or equal to 600 on the National Physical Therapist Assistant Examination; and
 - (2) Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.

137-005.02 Application: To apply for a credential to practice as a physical therapist assistant, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - b. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced as a physical therapist assistant in Nebraska before submitting the application; or
 - (2) If s/he has practiced as a physical therapist assistant in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;
- c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 137-015 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For the purposes of Neb. Rev. Stat. §38-129;
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credential Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;

- (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For the purposes of Neb. Rev. Stat. §38-129; a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);

- (9) A United States Citizen Identification Card (I-197 or I-179);
- (10) A Northern Mariana Card (I-873);
- (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
 - (1) Name and date of diploma/degree awarded; and
 - (2) Name of school, college, university that awarded the diploma/degree.
- f. Documentation of examination, including:
 - (1) Name of examination;
 - (2) Date of examination; and
 - (3) Rating/grade received; and
- g. Documentation that the applicant:
 - (1) Requested that the examination score for the National Physical Therapist Examination and the Jurisprudence (NE LAW) Examination be sent directly to the Department from the appropriate examination service or State Board office;
 - (2) Submitted a completed request for special accommodations, if special testing accommodations are needed by the applicant; and
 - (3) Submitted any other documentation as requested by the Board/Department; and

3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

137-005.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

137-005.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

137-005.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 137-015, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period,

requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

137-005.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

137-005.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 137-018 or such other action as provided in the statutes and regulations governing the credential.

137-005.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

137-005.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

137-005.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

137-006 REQUIREMENTS TO PERFORM PHYSICAL THERAPY SERVICES AS A CERTIFIED PHYSICAL THERAPIST ASSISTANT: A physical therapist assistant must be certified by the Department prior to performing physical therapy services.

137-006.01 General Supervision: A physical therapist assistant is authorized to perform physical therapy services under the general supervision of a physical therapist. A physical therapist assistant being directed to perform physical therapy services:

1. Must notify the supervising physical therapist of any change from routine responses that occur during or prior to treatment warranting a reevaluation of or a change in the patient treatment plan;
2. May document physical therapy services provided by the physical therapist assistant without the signature of the supervising physical therapist;
3. May act as a clinical instructor for physical therapist assistant students in an approved educational program; and
4. May assign the supervision of the physical therapist assistant student to another physical therapist assistant or physical therapist during the scheduled or non-scheduled periods of absence from the clinical setting.

137-006.02 Physical Therapy Assistant Student: All patient care services delivered by a physical therapist assistant student, working under the clinical instruction of a physical

therapist assistant must be rendered under the direct supervision of a supervising physical therapist or physical therapist assistant.

137-006.03 Prohibited Services: A certified physical therapist assistant is not authorized to perform any of the following:

1. Interpretation of physician referrals;
2. Development of a plan of care;
3. Initial evaluation or reevaluation of patients;
4. Readjustment of a plan of care without consultation with the supervising physical therapist; or
5. Discharge planning for patients.

137-007 FINE-WIRE ELECTROMYOGRAPHY: A physical therapist who wishes to perform tissue penetration for the purpose of fine-wire electromyography must meet one of the following requirements.

137-007.01 Requirements: A physical therapist must:

1. Complete pre-service or in-service training. The pre-service or in-service training must include:
 - a. Pertinent anatomy and physiology;
 - b. Choice and operation of equipment;
 - c. Knowledge of test indications;
 - d. Proper technique of tissue penetration;
 - e. Sterile methods, hazards, and complications;
 - f. Post test care;
 - g. Knowledge in test interpretation; and
 - h. Documentation of ten kinesiology electromyography examinations in an educational environment; or
2. Hold authorization from another state to perform fine-wire electromyography with substantially equivalent requirements; or
3. Hold a certification from the American Board of Clinical Specialists in the area of Clinical Electrophysiology; and
4. Maintain documentation of acceptable evidence of meeting one of the requirements specified in 172 NAC 137-007.01. Successful completion of the course must be maintained by the licensee and available upon request by the Board or Department. Documentation must be in the form of one of the following:
 - a. A certificate of completion of pre-service or in-service training;
 - b. A certificate from another state authorizing fine-wire electromyography or;
 - c. A copy of certification from the American Board of Clinical Specialists in the area of Clinical Electrophysiology.

137-008 REQUIREMENTS FOR SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS: A physical therapist supervising a physical therapist assistant must meet the following requirements of supervision:

1. A physical therapist may provide general supervision for no more than two physical therapist assistants at any point in time during the physical therapist's work day;

2. All physical therapy services performed by the physical therapist assistant are under the general supervision of a supervising physical therapist: General supervision as defined in 172 NAC 137-002 means supervision either onsite or by means of telecommunication; and
 - a. All telecommunications must be documented in the medical records of patients under care of the supervising physical therapist; and
 - b. When the supervising physical therapist is unavailable s/he must transfer responsibility of all patient care to another qualified physical therapist who will assume responsibility for all patient care including those being rendered by the physical therapist assistant under general supervision; and
3. The supervising physical therapist maintains primary responsibility for all patient care services including those rendered by a physical therapist assistant under general supervision;
4. A supervising physical therapist must re-evaluate or re-examine each patient and the plan of care of the patient receiving physical therapy services from a physical therapist assistant a minimum of least one time every 30 calendar days under general supervision. More frequent re-evaluations or re-examinations by the supervising physical therapist may be warranted dependent upon the following parameters:
 - a. Patient complexity and acuity;
 - b. Upon request by the physical therapist assistant;
 - c. When a change in treatment plan is warranted;
 - d. Any significant change in the medical status of the patient; and
 - e. Upon request by the patient; and
5. The supervising physical therapist must provide final documentation for discharge of patient care being rendered by a physical therapist assistant under general supervision, including patient response to treatment at the time of discharge; and
6. The physical therapist assistant may participate in the discharge process for patient care by providing subjective and objective patient information to the supervising physical therapist.

137-008.01 General Supervision of the Physical Therapist Assistant in Satellite Clinics: A physical therapist may supervise a physical therapist assistant in a satellite clinic under general supervision. Satellite clinics include but are not limited to:

1. Rehabilitation facilities;
2. Acute care facilities;
3. Skilled nursing facilities;
4. Nursing homes;
5. Schools-based settings;
6. Outpatient clinics;
7. Home health; and
8. Client preventative facilities.

137-008.01A When a physical therapist assistant is rendering physical therapy services in a satellite clinic the following requirements apply as well as 172 NAC 137-008, items 1-6:

1. A supervisory visit with the physical therapist will be made every 30 days or at a higher frequency if warranted. More frequent re-evaluations or re-

- examinations by the supervising physical therapist may be warranted dependent upon the following parameters:
- a. Patient complexity and acuity;
 - b. Upon request by the physical therapist assistant;
 - c. When a change in treatment plan is warranted;
 - d. Any significant change in the medical status of the patient; and
 - e. Upon request by the patient; and
2. A supervisory visit as defined in 172 NAC 137-002 is an on-site visit by the supervising physical therapist in consultation with the physical therapist assistant. The on-site visit may occur in any clinical setting where the supervising physical therapist renders patient care. The on-site visit must include:
 - a. Direct patient contact for the purpose of reevaluation or re-examination of patient status;
 - b. A review of the plan of care with revision and or termination of treatment as warranted; and
 - c. A re-assessment for utilization of outside resources for physical therapy services; and
 3. The supervising physical therapist must provide final documentation for discharge of patient care being rendered by a physical therapist assistant in a satellite clinic under general supervision, including patient response to treatment at the time of discharge. The physical therapist assistant may participate in the discharge process for patient care by providing subjective and objective patient information to the supervising physical therapist; and
 4. A physical therapist is not authorized to establish a satellite clinic for the purpose of rendering physical therapy services staffed solely by a physical therapist assistant.

137-008.02 Requirements for the Assignment of Services to Physical Therapist Assistants: It is the responsibility of the supervising physical therapist to determine which tasks require the clinical reasoning expertise of the physical therapist and which tasks can be safely assigned to the physical therapist assistant under general supervision.

137-008.02A Assignment of Services- Patient or Client Management: Assignment of services related to patient or client management is dependent upon the clinical practice setting in addition to patient complexity and acuity. Clinical practice settings include but are not limited to:

1. Rehabilitation facilities;
2. Acute care facilities;
3. Skilled nursing facilities;
4. Nursing homes;
5. School-based settings;
6. Out-patient clinics;
7. Home health;
8. Industrial rehabilitation facilities; and
9. Client preventative services.

137-008.02B Assignment of Patient or Client Services to a Physical Therapist Assistant: Patient complexity and acuity must also be considered when a physical therapist assigns patient or client services to a physical therapist assistant. The supervising physical therapist must exercise professional judgment when determining what services can or cannot be assigned to the physical therapist assistant.

137-008.02B1 Factors in Direct Patient Care: The following factors inherent in direct patient care must be considered by the supervising physical therapist when assigning services, and must be commensurate with the education, training, and experience of the physical therapist assistant under general supervision. These factors apply to all clinical settings where physical therapy services are rendered by a physical therapist assistant under general supervision:

1. Predictability of action - How confident is the physical therapist assistant in predicting consequences of action related to patient care?;
2. Stability of the environment - How confident is the physical therapist assistant in clinical problem solving issues related to change in patient status?;
3. Observability of patient status – How easy is it to observe or perceive relevant clinical indicators of patient status?;
4. Ambiguity of patient status – How difficult is it to interpret phenomena related to change in relevant clinical indicators?; and
5. Criticality of patient treatment – What consequences exist for a poor choice in patient intervention?

137-008.03 Responsibility of the Supervising Physical Therapist: For each patient under his/her care, a physical therapist must:

1. Be responsible for managing all aspects of physical therapy services provided to the patient and assume legal liability for physical therapy and related services provided under his/her supervision;
2. Provide initial evaluation and documentation of the evaluation;
3. Provide periodic reevaluation and documentation of the reevaluation;
4. Provide documentation for discharge, including the patient's response to therapeutic intervention at the time of discharge;
5. Be responsible for accurate documentation and billing for services provided; and
6. On each date physical therapy services are provided to a patient, a physical therapist must:
 - a. Provide all therapeutic interventions that require the expertise of a physical therapist for example, sharp wound debridement and low amplitude high velocity manual therapy techniques; and
 - b. Determine the appropriate use of physical therapist assistants or physical therapy aides.

137-009 USE OF UNLICENSED PERSONNEL: Unlicensed individuals may provide the following services.

137-009.01 Physical Therapy Aides: A physical therapy aide trained under the direction of a physical therapist may perform non-treatment and treatment related tasks under the

supervision of a physical therapist or a physical therapist assistant as specified below.

1. Non-Treatment Related Tasks - General Supervision: Under the general supervision of a physical therapist or physical therapy assistant a physical therapy aide may perform non-treatment related tasks under general supervision including clerical, housekeeping, facility maintenance or patient transportation services related to the practice of physical therapy such as:
 - a. Transporting patients;
 - b. Assisting a patient in preparation for treatment;
 - c. Removing and applying assistive and supportive devices; and
 - d. Other non-treatment related tasks.

2. Treatment Related Tasks - Direct Supervision: Under the direct supervision of a physical therapist or physical therapist assistant, a physical therapy aide may assist the physical therapist or physical therapist assistant with treatment related tasks. An aide may perform treatment related tasks when treatment is initiated by a physical therapist or physical therapist assistant and only under direct supervision. A physical therapy aide:
 - a. Must not solely provide an intervention;
 - b. Must receive training from a physical therapist for all treatment related tasks that the aide will perform;
 - c. Must receive supervision, orders, and directions only from a physical therapist or physical therapist assistant; and
 - d. Must be knowledgeable of the preparation of equipment and accessories and all other operational activities relevant to equipment and accessories necessary for treatment.

137-009.02 School Personnel and Personal Assistance Services: An unlicensed person employed by a school district, educational service unit, or other public or private educational institution or entity serving pre-kindergarten through twelfth grade students who is providing personal assistance services will not be construed to be engaged in the unauthorized practice of physical therapy. Personal assistance services include:

1. Mobility and transfer activities such as assisting with ambulation with and without aids;
2. Positioning in adaptive equipment;
3. Application of braces;
4. Encouraging active range-of-motion exercises;
5. Assisting with passive range-of-motion exercises;
6. Assisting with transfers with or without mechanical devices; and
7. Other personal services based on individual needs as are suitable to providing an appropriate educational program.

137-010 LIABILITY FOR NEGLIGENCE: The physical therapist must be responsible for managing all aspects of physical therapy services provided to the patient and assume legal liability for physical therapy and related services provided under his/her supervision.

137-011 EXAMINATION ELIGIBILITY

Effective Date
June 23, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 137

137-011.01 Physical Therapist Licensure Examination: To be eligible to take the licensure examination, an applicant must have met all the requirements for licensure pursuant to 172 NAC 137-003 or 137-004 except passing the licensure examination.

137-011.02 Physical Therapist Assistant Certification Examination: To be eligible to take the certification examination, an applicant must have met all the requirements for certification pursuant to 172 NAC 137-005 except passing the certification examination.

137-011.03 Jurisprudence (NE LAW) Examination for Applicants Applying Based on a License or Certificate in Another Jurisdiction: To be eligible to take the jurisprudence (NE LAW) examination, an applicant must have met all requirements for licensure or certification that are pursuant to 172 NAC 137-003, 137-004, or 137-005 except passing the jurisprudence (NE LAW) examination.

137-012 EXAMINATION PROCEDURES

137-012.01 Physical Therapist Licensure Examination: The Department will notify an applicant in writing of the licensure examination results within 60 days after notification of the examination scores.

137-012.02 Physical Therapist Assistant Certification Examination: The Department will notify an applicant in writing of the certification examination results within 60 days after notification of the examination scores.

137-012.03 Re-examination

137-012.03A An applicant who fails the licensure examination may apply for re-examination by submitting a new application pursuant to 172 NAC 137-003 or 137-004.

137-012.03B An applicant who fails the certification examination may apply for re-examination by submitting a new application pursuant to 172 NAC 137-005.

137-012.03C The Department will notify an applicant in writing of the re-examination results within 60 days after notification of the examination scores.

137-013 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSURE AND CERTIFICATION: Each person holding an active credential must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 137-014.03 and 137-014.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

137-013.01 General Requirements for Renewal of Licensure or Certification: On or before November 1 of each odd-numbered year, each physical therapist and each physical therapist assistant with an active credential must:

1. Complete acceptable continuing education hours to renew a license or certificate during the preceding 24 month period:
 - a. Each physical therapist must complete 20 hours of continuing education and each physical therapist assistant must complete ten hours of continuing education during the preceding 24 month period; and
 - b. Each physical therapist and each physical therapist assistant must successfully complete the Nebraska Law Tutorial: The Nebraska Law Tutorial is a free, online open book tutorial developed by the Board for the purpose of assuring that all physical therapists and physical therapist assistants understand the Physical Therapy Practice Act and these regulations, 172 NAC 137. Successful completion means a score of 100%. Each licensee or certificate holder is required to maintain a copy of the Nebraska Law Tutorial documentation; and

2. Be responsible for:
 - a. Maintaining documentation of attendance at or participation in continuing competency activities until the next renewal period. Documentation of attendance must include the following:
 - (1) A signed certificate;
 - (2) The course brochure or course outline; and
 - (3) Completed Nebraska Law Tutorial documentation; and
 - b. Maintaining documentation of presentation of a continuing education program if the licensee is presenting a program. Documentation must include the following:
 - (1) The course outline; and
 - (2) The course brochure; or
 - (3) A statement of the instructor's qualifications to teach the course, unless the qualifications are included in the brochure.

137-013.02 Acceptable Continuing Education: In order for a learning experience to be accepted for the renewal or reinstatement of a license or certificate, the learning experience must relate to physical therapy and it may focus on research, treatment, documentation, management, or education. The Board does not pre-approve continuing education programs but may accept as continuing education for renewal of a license or certificate or reinstatement of a license or certificate the following learning experiences to include:

1. Programs at State and National meetings which relate to the theory or clinical application of theory pertaining to the practice of physical therapy for example, a meeting of the Nebraska Physical Therapy Association and/or the American Physical Therapy Association; or

2. Formal education courses or presentations in which:
 - a. The courses or presentations are formally organized and planned instructional experiences that have:
 - (1) A date;

- (2) Location;
 - (3) Course title;
 - (4) Number of contact hours;
 - (5) A signed certificate of attendance; and
 - (6) Are open to all licensees and certificate holders;
 - b. The objectives relate to the theory or clinical application of theory pertaining to the practice of physical therapy; and
 - c. The instructor has specialized experience or training to meet the objectives of the course;
3. University sponsored courses relating to the theory or clinical application of theory pertaining to the practice of physical therapy;
 4. Home study relating to the theory or clinical application of theory pertaining to the practice of physical therapy: A Licensee or certificate holder may complete a maximum of ten hours of continuing education by home study each 24 month renewal period. The home study program must have a testing mechanism;
 5. Management courses which relate to the theory or clinical application of theory pertaining to the practice of physical therapy. A Licensee or certificate holder may complete a maximum of four hours of continuing education utilizing management courses each 24 month renewal period;
 6. Videotapes or satellite programs that meet the following criteria:
 - a. There is a sponsoring group or agency;
 - b. There is a facilitator or program official present each time the videotapes or satellite programs are presented to monitor attendance of licensees;
 - c. Any program official who wishes to receive credit for a videotape or satellite program may not self-monitor attendance; and
 - d. The objectives of the program must relate to the theory or clinical application of theory pertaining to the practice of physical therapy. A Licensee or certificate holder may complete a maximum of ten hours of continuing education utilizing videotape presentations or satellite programs each 24 month renewal period;
 7. Completion and publication of a scientific review of a research paper for a professionally recognized database as approved by the Board for example, APTA *Hooked on Evidence*, Physiotherapy Evidence Database (PEDro). A Licensee or certificate holder will be awarded a maximum of five hours each 24 month period. One contact hour will be awarded for each article published. Documentation must include a certificate of completion or a copy of the published review;
 8. Participation in research or other scholarly activities that result in professional publication or acceptance for publication that relates to physical therapy and is intended for an audience of health care professionals: A Licensees or certificate holders will be awarded a maximum of ten hours each 24 month period. These include:

- a. Primary author of an article in a non-refereed journal. Earn five hours per article: Documentation required – a copy of the article;
 - b. Primary or secondary author of an article in a refereed journal. Earn ten hours per article: Documentation required – a copy of the article;
 - c. Primary, secondary or contributing author of a published textbook. Earn ten hours per book: Documentation required – A copy of the title page;
 - d. Primary or secondary author of a poster presentation. Five hours per presentation: Documentation required – Letter of acknowledgement;
 - e. Primary author of a home study course. Earn five hours per course: Documentation - Letter of approval;
9. Completion of the Jurisprudence (NE LAW) Examination: Five hours of continuing education will be awarded for passing the Jurisprudence (NE LAW) examination with a scaled score that is greater than or equal to 600;
10. Completion of a residency and/or fellowship program approved by the American Physical Therapy Association: A Licensee or certificate holder will be awarded one hour for each month of participation. Documentation required – Letter verifying participation from the agency providing the program. The dates of participation must be included in the letter;
11. Obtaining the initial Certified Strength and Conditioning Specialist (CSCS) certificate issued by the National Strength and Conditioning Association (NSCA). Four hours of continuing education will be awarded for the Certified Strength and Conditioning Specialist (CSCS) certificate during the twenty hour months prior to the reinstatement application or license expiration date; or
12. Direct supervision of students for clinical education:
- a. The physical therapist or physical therapist assistant who is supervising the student must be an American Physical Therapy Association Credentialed Clinical Instructor of record at the Basic Level;
 - b. The student being supervised must be from an accredited physical therapist or physical therapist assistant program and participating in a full-time clinical experience of varying length. Full time is defined as clinical experiences with durations of approximately 40 hours per week ranging from 1-18 weeks;
 - c. One hour will be awarded for every 160 contact hours of supervision of full-time physical therapist student or physical therapist assistant student;
 - d. A maximum of eight hours for physical therapist and four hours for physical therapist assistant per 24 month renewal period may be awarded to each individual for supervision of a physical therapist student or physical therapist assistant student; and
 - e. The physical therapist or physical therapist assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.

137-013.02A Two hours of credit will be awarded for a current Cardiopulmonary Resuscitation (CPR) certificate.

137-013.02B One hour of credit will be awarded for each hour of attendance. Credit will not be awarded for breaks or meals.

137-013.02C One hour credit will be awarded for each hour of scientific presentation by a licensee or certificate holder acting as an essayist or lecturer to licensed physical therapists and physical therapist assistants if the program relates to the theory or clinical application of theory pertaining to physical therapy: A licensee or certificate holder may receive continuing education credit for only the initial presentation during a renewal period, with a maximum of four hours of continuing education for presentations in a 24 month renewal period.

137-013.03 Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the subject matter does not relate to the theory or clinical application of theory pertaining to the practice of physical therapy, including but not limited to:

1. Business communications and operations;
2. Medical terminology;
3. Courses which deal with personal self-improvement, financial gain, or career options;
4. Courses designed for lay persons.
5. Teaching unlicensed or uncertified persons;
6. Courses less than 60 minutes in duration;
7. Physical therapy on-the-job training; or
8. Physical therapy orientation programs or staff meetings, including:
 - a. Orientation to new policies;
 - b. Procedures;
 - c. Equipment;
 - d. Forms;
 - e. Responsibilities; or
 - f. Services; or
9. Presentations made by students; or
10. Participation in or attendance at case conferences, grand rounds, or informal presentations.

137-014 RENEWAL: An individual who wants to renew his/her physical therapist or physical therapist assistant credential must request renewal as specified in 172 NAC 137-014.02. All physical therapist and physical therapist assistant credentials issued by the Department will expire on November 1 of each odd-numbered year.

137-014.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;

5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

137-014.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#) or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 137-013 or has requested a waiver if s/he meets the requirements of 172 NAC 137-014.04 and/or 137-014.03;
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 137-13.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For the purposes of Neb. Rev. Stat. §38-129; a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department;
3. The renewal fee according to 172 NAC 2.

137-014.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 137-016, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

137-014.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

137-014.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include:

1. The licensee or certificate holder has submitted proof that s/he was suffering from a serious or disabling illness or physical disability which prevented completion of the continuing competency requirements during the 24 months immediately preceding the license renewal date. The proof submitted by the licensee or certificate holder must include a statement from a treating physician and indicate:
 - a. That the licensee or certificate holder was injured or ill;
 - b. The duration of the illness or injury and of the recovery period; and
 - c. That the license or certificate holder was unable to obtain or complete the required number of continuing education hours during that period.

137-014.05 The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of such requirements.

137-014.05A When the Department determines to deny an application for waiver of continuing competency requirements, it will send to the applicant by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

137-014.05A1 The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal

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will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-902, Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

137-014.05A2 The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

137-014.05B When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30 days of receipt of the application.

137-014.06 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

137-014.06A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

137-014.06B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

137-014.06C Acceptable documentation that the credential holder has met the continuing competency requirements include:

- (1) The course outline; and
- (2) The course brochure; or
- (3) A statement of the instructor's qualifications to teach the course, unless the qualifications are included in the brochure; and
- (4) Nebraska Law Tutorial documentation with a score of 100%

137-014.06D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

137-014.06E The Department will notify the credential holder upon satisfactory completion of the audit.

137-014.06F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

137-014.06G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and

requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

137-014.07 Department Review: The Department will act within 150 days upon all completed applications for renewal.

137-014.07A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

137-014.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

137-014.09 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

137-014.09A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

137-014.09B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

137-014.09C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as a physical therapist or physical therapist assistant terminates.

137-014.09D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 137-018 or such other action as provided in the statutes and regulations governing the credential.

137-014.09E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice as a physical therapist or physical therapist assistant after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 137-.017.

137-014.10 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

137-014.10A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

137-014.10B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice as a physical therapist or physical therapist assistant, but may represent him/herself as having an inactive credential.

137-014.10C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 137-017.

137-015 DISCIPLINARY ACTIONS

137-015.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;

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9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 137-015.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 137-015.02; or
24. Violation of the Automated Medication Systems Act.

137-015.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but not is limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;

- c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
 - d. By a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
 4. Cheating on or attempting to subvert the credentialing examination;
 5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
 6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
 7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
 8. Knowingly disclosing confidential information except as otherwise permitted by law;
 9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
 10. Failure to keep and maintain adequate records of treatment or service;
 11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
 12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency:
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
 13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
 14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care; and
 15. Competence: A physical therapist or physical therapist assistant must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of physical therapy includes but is not limited to: Performing or agreeing to perform procedures when the procedures are known to be a departure from the standards of acceptable and prevailing practice in physical therapy. Unprofessional conduct does not include a single act of ordinary negligence.
 16. Confidentiality: Without the prior written consent of a patient, physical therapist or physical therapist assistant must hold in confidence information obtained from a patient, except in those unusual circumstances in which to

do so would result in clear danger to the person or to others, or where otherwise required by law;

17. Professional Relationships: A physical therapist or physical therapist assistant must safeguard the welfare of patients and maintain professional relationships with patients. Commission of any of the following acts or behavior will constitute unprofessional conduct:
 - a. Exploiting another person for one's own advantage;
 - b. Performing or agreeing to perform physical therapy services that have been requested when the services are known to be contraindicated or unjustified;
 - c. Performing or agreeing to perform procedures that have been requested when the procedures are known to be outside of the physical therapists or physical therapist assistant's scope of practice;
 - d. Verbally or physically abusing patients;
 - e. Falsification or unauthorized destruction of patient's records;
 - f. Attempting to provide diagnostic or treatment information to patient(s) that is beyond the physical therapists or physical therapist assistant's level of education, training and expertise
 - g. Delegating to other personnel those patient related services for which the clinical skills and expertise of a physical therapist or physical therapist assistant are required;
 - h. Encouraging or promoting the practice of physical therapy by untrained or unqualified persons;
 - i. Failure to safeguard the patient's dignity and right to privacy;
 - j. Failure to maintain adequate patient records : Adequate patient records means legible records that contain at a minimum, sufficient information to identify the patient, an evaluation of objective findings, a plan of care, a treatment record, and a discharge plan; or
 - k. Delegating to a physical therapy assistant those patient related services for which the clinical skills and expertise of a physical therapist are required;
18. Sexual Misconduct: A physical therapist or physical therapist assistant must not under any circumstances engage in sexual misconduct. Specifically with regard to patients, the unprofessional conduct includes but is not limited to:
 - a. Engaging in sexual relationships, whether consensual or non consensual with any patient while a physical therapist or physical therapist assistant/patient relationship exists; or
 - b. Engaging in sexual harassment of patients: Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
 - (1) Providing or denying physical therapy to a patient;
 - (2) Creating an intimidating, hostile, or offensive environment for the patient; or
 - (3) Interfering with a patient's ability to recover;

19. Other unprofessional conduct includes but is not limited to:
 - a. Obtaining any fee for professional services by fraud, deceit or misrepresentation;
 - b. The violation of an assurance of compliance entered into pursuant to Neb. Rev. Stat. § 71-171.02 of the Uniform Licensing Law;
 - c. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
 - d. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a physical therapist;
 - e. Practicing in this state without a current Nebraska license or certificate;
 - f. Failure to obtain patient informed consent before treatment;
 - g. Failure to take steps to transfer the continuum of care of the patient, as appropriate, to another health care provider in the event of elective termination of physical therapy services by the physical therapist;
 - h. Engaging in conduct that subverts or undermines the integrity of the examination or the examination process including, but not limited to, utilizing in any manner recalled or memorized examination questions from or with a person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with other examinees during the test, or copying or sharing examination questions or portions of questions;
 - i. Failure to complete continuing competency requirements as established by rules and regulations as specified in 172 NAC 137;
 - j. Promoting any unnecessary device, treatment intervention or service resulting in the financial gain of the practitioner or of a third party; or
 - k. Participating in under-utilization or over-utilization of physical therapy services for personal or institutional financial gain;

137-015.03 Temporary Suspension or Limitation

137-015.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 137-015.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

137-015.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or

temporary limitation order by the Director will take effect when served upon the credential holder.

137-015.03C A temporary suspension or temporary limitation of a credential under 172 NAC 137-015.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

137-015.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

137-015.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

137-015.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 137-015.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

137-016 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

137-016.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

137-016.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

137-016.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms

and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:

- a. Duration of the surrender;
- b. Whether the credential holder may apply to have the credential reinstated; and
- c. Any terms and conditions for reinstatement.

137-016.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

137-016.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

137-016.06 Reinstatement following voluntary surrender is set out in 172 NAC 137-017.

137-017 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

137-017.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
- (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
- (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 137-013 for a physical therapist or physical therapist assistant within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 137-015 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and

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- (6) For the purposes of Neb. Rev. Stat. §38-129; a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

137-017.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

137-017.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

137-017.01C The Department will act within 150 days on all completed applications.

137-017.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

137-017.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 137-017.01.

137-017.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence and/or immigration status which may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
 - d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 137-013 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 137-015 since the last renewal or issuance of the credential

- (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
- (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For the purposes of Neb. Rev. Stat. §38-129
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee: The renewal fee.

137-017.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

137-017.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

137-017.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 137-017.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or

- c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 137-018, in which case a separate notice of opportunity for hearing will be sent to the applicant.

137-017.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

137-017.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

137-017.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before

filing the current application, the Department may grant or deny the application without another hearing before the Board.

137-017.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

137-017.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

137-017.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

137-018 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or

3. Prior to the reinstatement of a credential.

137-018.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Water well registration or other government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

137-018.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska; e. That unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

Effective Date
June 23, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 137

137-018.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

137-019 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

137-020 METHOD OF IDENTIFICATION: Every person credentialed as a physical therapist or physical therapist assistant shall make his/her current credential available upon request. The method of identification shall be clear and easily accessed and used by the consumer. All signs, announcements, stationery, and advertisements of physical therapists or physical therapist assistants shall identify the profession. The initials PT and PTA are acceptable identifiers.

These amended rules and regulations replace Title 172 NAC 137 Regulations Governing the Practice of Physical Therapy, effective August 20, 2008.

Approved by the Attorney General:	May 22, 2012
Approved by Governor:	June 18, 2012
Filed with Secretary of State of Nebraska:	June 18, 2012
Effective Date:	June 23, 2012

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH
PROFESSIONAL AND OCCUPATIONAL LICENSES REGULATIONS

CHAPTER 143 - REGULATIONS GOVERNING THE PRACTICE OF PODIATRY

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EFFECTIVE DATE
01/19/2005

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 143

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 143 PRACTICE OF PODIATRY

143-001 SCOPE AND AUTHORITY: These regulations apply to licensure of Podiatrists as defined by Neb. Rev. Stat. §§ 71-173 to 71-176.03 and the Uniform Licensing Law.

143-002 DEFINITIONS:

Accredited College of Podiatry means a school or college which maintains the standards approved by a regional or professional accrediting organization that is recognized by the Council of Postsecondary Accreditation of the United States Department of Education and is approved by the Department upon recommendation of the Board.

Act means Neb. Rev. Stat. §§ 71-173 to 71-176.03.

Angoff Method means a method of determining passing scores based on aggregate information obtained by having judges predict the probability that a hypothetical minimally competent candidate will correctly answer items in a test.

Approved Clinical Facility means a clinical facility sponsored by an accredited college of podiatry.

Approved continuing competency means activities that ensure the maintenance of knowledge and skills necessary to competently practice podiatry; the utilization of new techniques based on scientific and clinical advances; and the promotion of research to assure expansive and comprehensive services to the public. The activities must meet the criteria for approval established by the Board to be recognized for licensure renewal.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Podiatry.

Completed application means an application with all of the information requested on the application filled in, the signature of the applicant verified, fees and all required documentation submitted.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. §81-3201, for performance of the duties set out in that statute.

Hour means a period of 50 minutes of formal instruction, otherwise known as a "contact hour."

Inactive status means the voluntary termination of the right or privilege to practice podiatry. The licensee retains the right or privilege to represent himself/herself as having an inactive license.

Lapsed status means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice podiatry.

Licensee means an individual licensed to practice podiatry in Nebraska.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 143.

Official transcript means issued by and under the original seal of the educational institution.

Podiatric services are those services provided by a podiatrist as described in Neb. Rev. Stat. §§ 71-173 through 71-176.03.

Person means individual, corporation, partnership or other for-profit or not-for-profit entity.

Provider means an institution or individual that presents continuing education programs to licensees and requests approval from the Board of those programs.

Suitable Advanced Postdoctoral Surgical Residency Program means a surgical residency program approved by the Council on Podiatric Medical Education, or approved by another body that approves podiatric residency programs that maintains standards for approval that are equivalent to those of the Council on Podiatric Medical Education.

Verified means sworn to before a Notary Public.

143-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person, except those listed in Neb. Rev. Stat. § 71-174, who wishes to practice and/or represent himself/herself as a podiatrist must be licensed as a podiatrist. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

143-003.01 Procedures for Licensure as a Podiatrist by Examination: An applicant for a license to practice podiatry on the basis of an examination must:

1. Have graduated from an accredited college of podiatry;
2. Pass each test in Parts I and II of the examination given by the National

- Board of Podiatric Medical Examiners (NBPME) with a score of 75 or above.
3. Pass one of the following:
 - a. The Podiatric Medical Licensing Examination for States (PMLexis) given by the NBPME with a passing score as determined by using the Anghoff Method or other comparable criterion referenced scoring method; or
 - b. The National Board of Podiatric Medical Examiners (NBPME) Part III with a score of 75 or above.
 4. Effective September 6, 1991, scores on this examination obtained more than 30 days prior to graduation, within 30 days of graduation or following graduation will be accepted.
 5. Complete a minimum one-year postgraduate residency program approved by the Council on Podiatric Medical Education.
 6. Have good moral character and have attained at least the age of majority (Neb. Rev. Stat. § 43-2101. All persons under 19 years of age are declared to be minors, but in case any person marries under the age of 19 years, his/her minority ends); and
 7. Submit to the Department:
 - a. A verified, completed application which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format. Only applications which are complete will be considered.
 - (1) Personal information: legal name, date of birth, Social Security Number, place of birth, mailing address, telephone number (optional), e-mail address (optional).
 - (2) Education: name and location of accredited podiatry college and date of graduation.
 - (3) Indicate whether you are applying by examination or reciprocity.
 - (4) All applicants must respond to the following questions by answering yes or no. If the answer is yes to any question, explain the circumstances and outcome.
 - (a) Have you ever been convicted of a misdemeanor or felony?
 - (b) Have you ever been denied a license or the right to take and examination?
 - (c) Has your Podiatry license in any state ever been suspended, revoked, placed on probation or disciplined in any manner?
 - (d) Have you ever voluntarily surrendered or limited in any way a license issued to you by a licensing or disciplinary authority?
 - (e) Have you ever been requested to appear before any licensing agency?

- (f) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (g) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (h) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (i) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (j) During the past ten years, have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (k) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (l) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (m) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (n) Have you ever surrendered your state or federal controlled substances registration?
 - (o) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (p) Have you ever been notified of any malpractice claim against you?
- (5) Indicate whether or not you have been licensed as a podiatrist in another state. If yes, list all other states where you have been or are currently licensed, including license number, issuance date and expiration date.
- (6) If applying by reciprocity: indicate the name of the agency that issued your initial license to practice podiatry and the name of the written examination administered; indicate whether or not you have been in the active and continuous practice of podiatry for one year of the three years immediately preceding the date of application; and list the location, address and dates actively engaged in the practice of podiatry in another jurisdiction.
- (7) Indicate whether or not you hold a Federal Controlled Substances Registration.
- (8) Notarized statement from the applicant that s/he is of good moral character and that the statements on the application are true and complete.

- b. An official transcript from an accredited college of podiatry showing graduation from the college;
- c. Official documentation of the scores obtained on Parts I and II of the examination given by the NBPME.
- d. Official documentation sent directly from the NBPME of the scores obtained on the PMLexis or the NBPME Part III.
- e. Official documentation of completion of a minimum one-year postgraduate residency program approved by the Council on Podiatric Medical Education.
- f. The required licensure fee; and
- g. A copy of birth certificate, marriage license, driver's license or other valid verification of age.

143-003.02 Procedures for Licensure as a Podiatrist Based on a License

In Another Jurisdiction: An applicant who is licensed as a podiatrist in another jurisdiction must:

- 1. Meet the requirements of 172 NAC 143-003.
- 2. Be currently licensed to practice podiatry in another state or jurisdiction; and
- 3. Submit to the Department:
 - a. All documentation pursuant to 172 NAC 143-003.01 item 7; and
 - b. The following documentation from the licensing agency of the jurisdiction where the applicant was initially licensed:
 - (1) A certification that the applicant is duly licensed, that his/her license was based on an examination, that his/her license has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
 - (2) The nature of disciplinary actions, if any, taken against the applicant's license; and
 - (3) The date of the applicant's license.
 - c. Documentation that the applicant has been actively engaged in the practice of podiatry or in an accepted residency or graduate training program for at least one of the three years immediately preceding the date of the application for Nebraska licensure.

143-003.02A The Board will review the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are comparable to those maintained in podiatry in Nebraska and will recommend to the Department to issue or deny the license.

143-003.03 The Department will act within 150 days upon all completed applications for licensure.

143-003.04 When a license will expire within 180 days after its initial issuance date, the

Department will collect one-fourth of the initial licensing fee, and the license will be valid until the next subsequent renewal date.

143-004 EXAMINATION ELIGIBILITY

143-004.01 To be eligible to sit for the NBPME Part III for Nebraska, an applicant must:

1. Have met all the requirements for licensure that are specified in 172 NAC 143-003.01 or 143-003.02, except 143-003.01 item 3.
2. Submit a complete application for licensure pursuant to 172 NAC 143-003.01 item 7 or 143-003.02 item 3 no later than 30 days prior to the scheduled examination date.

143-005 RESERVED

143-006 PROCEDURES FOR RENEWAL OF LICENSE: All licenses issued by the Department under the Act and these regulations expire on April 1 of each even-numbered year.

143-006.01 Renewal process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements pursuant to 172 NAC 143-008;
2. Pay the renewal fee pursuant to 172 NAC 143-013;
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?
These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee; and
 - c. Attestation of completing 48 hours of continuing education earned with 24 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;

- (3) A letter from the licensee explaining the nature of the conviction;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

143-006.02 First Notice: At least 30 days before April 1 of each even-numbered year, the Department will send a renewal notice, by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

143-006.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 143-013;
6. The number of continuing education hours required for renewal; and
7. The option to place the license on either inactive or lapsed status.

143-006.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing 48 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

143-006.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by

submitting to the Department:

- a. The renewal notice with a check in the box marked lapsed.

143-006.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive or lapsed status.

143-006.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to the requirements of 172 NAC 143-006.01 that specify:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 143-014 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of and documentation of continuing competency hours within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked pursuant to 172 NAC 143-007.

143-006.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - a. That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license.
5. Attestation of completing 48 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

143-006.03B If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked

- inactive; and
 - b. The fee of \$25; or
 - 2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

143-006.03C The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

143-006.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

143-006.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

143-006.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status after expiration, 172 NAC 143-006.04 and 172 NAC 143-006.05 will not apply.

143-006.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

143-006.08 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 143-014, or such other action as provided in the statutes and regulations governing the credential.

143-007 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:
The Department will revoke a license within 30 days of its expiration when the licensee fails to meet the renewal requirements.

143-007.01 Revocation for Non-payment of Renewal Fee.

143-007.01A When a licensee fails to pay the required renewal fee or fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the license without further notice or a hearing.

143-007.01A1 The revocation notice specifies that the:

1. Licensee was given first and second notice of renewal requirements and the respective dates for these notices;
2. Licensee failed to renew the license or to request that his/her license be placed on inactive or lapsed status;
3. Department has revoked the license;
4. Licensee has a right to appeal the revocation; and
5. Licensee has a right to reinstatement of the license.

143-007.02 Revocation for Failure to Meet Continuing Competency Requirements.

143-007.02A When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal, the Department revokes his/her license after notice and opportunity for a hearing.

143-007.02A1 The revocation notice for failure to meet continuing education requirements specifies that the:

1. Licensee was given first and second notice of failure to meet the continuing education requirement and the respective dates of each notice;
2. Licensee either failed to renew the license or to have his/her license placed on inactive or lapsed status;
3. Department will revoke the license within 30 days of the date of the notice unless the licensee requests in writing a hearing;
4. Licensee has a right to appeal the revocation; and
5. Licensee has a right to reinstatement of the license.

143-008 CONTINUING COMPETENCY

143-008.01 General Requirements for Licensee: On or before April 1, 1986, and on or before April 1 of each even-numbered year thereafter, each podiatrist who is in active practice in the State of Nebraska must:

143-008.01A Complete 48 hours of approved continuing education during the preceding 24 month period.

143-008.01B Submit to the Department an attestation that licensee has met the continuing competency for the 24 months immediately preceding the expiration date.

143-008.01C Be responsible for:

1. Verifying with the Department that the continuing education programs are approved by the Board;
2. Maintaining documentation of attendance at or presentation of approved continuing education programs related directly to the

theory or clinical application of theory pertaining to the practice of podiatry. Such programs include:

- a. State and national meetings, i.e., a meeting of the American Podiatric Medical Association.
 - b. One hour credit for each hour of attendance, and only the portion of such meeting which meets the definition of continuing education can be accepted for credit.
 - c. Formal education courses which relate directly to the theory or clinical application of theory pertaining to the practice of podiatry:
 - (1) One hour credit for each hour of attendance.
 - d. Podiatric college-sponsored courses in continuing education in podiatry:
 - (1) One hour credit for each hour of attendance.
 - e. Podiatric specialty society sponsored courses, i.e., the American College of Foot Surgeons, American College of Foot Orthopedists, American College of Foot Roentgenology:
 - (1) One hour credit for each hour of attendance.
 - f. Home study with testing mechanism. Licensee may complete a maximum of 16 hours of the continuing education requirements by home study during each 24 month renewal period. The home study program must have a testing mechanism and must be approved by the Board prior to completion of the home study continuing education program.
 - (1) One credit hour for each hour of study; no more than 16 credit hours of this type of continuing education may be counted within a 24 month period.
 - g. Examples of nonacceptable subject matter include, but are not limited to, practice management programs and education provided by a business entity for the purpose of promotion of their products or services.
3. Maintaining documentation of presentation of an approved continuing education program. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.

143-008.01D If applicable, submit an application for waiver of the education

requirement pursuant to 172 NAC 143-008.03.

143-008.02 Approval of Continuing Education Programs.

143-008.02A The Board will evaluate applications from providers of continuing education programs in order to determine if approval is to be granted or denied. To be approved, a continuing education program must meet the following criteria:

1. The program must be at least one hour in duration;
2. The program's objectives must relate directly to the theory or clinical application of theory pertaining to the practice of podiatry;
3. The presenter of the program must be qualified by education, experience or training; and
4. Programs must be open to all podiatrists licensed in Nebraska.

143-008.02B The provider must submit to the Board an application provided by the Department or on an alternate format. Only applications which are complete will be considered. The following information must be included with the application:

1. A description in detail of program content;
2. A description of program objectives;
3. A description of the qualifications of each presenter;
4. The number of hours for which approval is requested;
5. The name, address, and telephone number of the provider and its administrator, operating officer and proctor;
6. A description of the process the provider uses to verify attendance by the licensee;
7. A sample copy of the documentation the provider issues to the licensee as proof of attendance at the program;
 - a. Certificates verifying attendance at approved courses must contain at least the following information:
 - (1) Name of the course;
 - (2) Name of the provider;
 - (3) Name of the licensee who attended the course;
 - (4) Number of credit hours earned (actually attended) by the licensee;
 - (5) Date(s) the course was attended by the licensee.
8. Date, time and place of program; and
9. Verification that proctor is in attendance.

143-008.02C The provider may submit such additional documents or information as considered relevant to the application and in compliance with the provisions of these regulations.

143-008.02D The provider must submit a complete application to the Department at least 45 days prior to the date on which the program is to be given to gain

approval before the program is presented.

143-008.02E Once a provider is granted approval by the Board for a continuing education program, reapproval will not be required for each subsequent occasion on which the program is administered, so long as the program is not changed or the laws and regulations governing continuing education are not changed. If any portion of the program is changed, reapplication must be made in accordance with 172 NAC 143-008.02.

143-008.02F Post-Program Approval Requested by Provider: Applications for approval of a continuing education program made after the program has occurred must be submitted within 60 days after the date of the program. Those applications for approval submitted less than 60 days before April 1 of each even-numbered year will not be considered for approval for the renewal period.

143-008.02G Post-Program Approval Requested by Licensee: A licensee may request Board approval of a continuing education program after the date the program is offered by submitting the information 172 NAC 143-008.02.

143-008.02H After the Board has granted its written approval of the application, the provider is entitled to state upon any publication which advertises or announces the program, the following statement: "This program is approved for ___ hours of continuing education by the Nebraska Board of Podiatry."

143-008.02I Denial of Continuing Education Programs:

1. The Department will, upon recommendation of the Board, deny an application for approval of a continuing education program or will suspend or revoke approval of a continuing education program on any of the following grounds:
 - a. Fraud or misrepresentation of information in an application;
 - b. Program content or the presenter's qualifications fail to meet requirements specified in 172 NAC 143-008.01C item 2 or 143-008.02. The Board will not approve continuing education programs related to practice management or promotion of products or services; or
 - c. If the program's objectives do not relate to the theory or clinical application of theory pertaining to the practice of podiatry.
2. The Board may grant approval or recommend denial of an application for approval of continuing education programs. Should the Board determine to deny an application for a continuing education program, it will send to the applicant by either certified or registered mail to the last address of record in the Department, a notice setting forth the reasons for the determination.
 - a. Denial of an application submitted by a provider will become final 15 days after the mailing of the notice unless

the provider, within such 15 day period, will give written notice to the Department of a desire for hearing. The hearing will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920 and 184 NAC 1, Rules of Practice and Procedure of the Department.

143-008.03 Waiver of Continuing Education: The Department, on the recommendation of the Board, may waive the continuing education requirements, in whole or in part, for any two year licensing period when a licensee submits documentation that circumstances beyond his/her control prevented the completion of the requirements.

143-008.03A The circumstances include situations in which the licensee:

1. Holds a Nebraska license but is not practicing podiatry in Nebraska; or
2. Has been in the service of the regular armed forces of the United States during any part of the 24 months immediately preceding the license renewal date; or
3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or
4. Has been first licensed within 24 months immediately preceding the renewal date.

143-008.03B Application for Waiver of Continuing Competency: Any licensee who seeks a waiver of continuing competency, in part or in total, for any two year licensing period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing requirements in part or in total for any two year period. The licensee must submit:

1. A verified complete application for waiver of continuing education on a form provided by the Department, or on an alternate format which includes the following information. Only applications which are complete will be considered, and the application must be received by the Department on or before April 1 of the year the license is subject to renewal;
 - a. Name of licensee;
 - b. License number;
 - c. State and county whether the person signing the affidavit is locates;
 - d. Number of continuing education hours requested to be waived;
 - e. Reason for requesting a waiver; and
 - f. Notarized statement from the applicant that the statements on the application are true and complete.
2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing education requirements

must include the following:

- a. If the licensee holds a Nebraska license but is not practicing in Nebraska, s/he must indicate this waiver option.
- b. If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must indicate this waiver option and submit official documentation stating the dates of service.
- c. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing education during the 24 months immediately preceding the license renewal date, indicate this waiver option and submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to attend continuing education programs during that period.
- d. If the licensee was first licensed within the 24 months immediately preceding the license renewal date, indicate this waiver option and list the date the license was issued.

143-008.03C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing education requirements, upon proof that circumstances beyond the licensee's control prevented completion of such requirements.

143-008.03C1 When the Department determines to deny an application for waiver of continuing education requirements, it will send to the licensee by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

1. The licensee has 30 days from the date of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with The Administrative Procedures Act and 184 NAC 1, Rules of Practice and Procedure of the Department.
2. The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

143-008.03C2 When the Department determines to grant a waiver of continuing education, the licensee will be notified within 30 days of receipt of the application.

143-008.04 Audit of Continuing Education: The Board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee will be responsible for maintaining in his/her personal

files such certificates or records of credit from continuing education activities received from approved providers. Licensees selected for audit will be required to produce documentation of his/her attendance at 48 hours of approved continuing education to meet the continuing competency requirements.

143-008.04A The Department will send to each licensee selected for audit a notice of audit.

143-008.04B When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in 48 hours of approved continuing education activities.

143-008.04C Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

143-009 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE:

143-009.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 143-003 or is found to be in violation of any of the provisions of 172 NAC 143-009.03.

143-009.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements specified in 172 NAC 143-006, 143-008 or 143-009.03.

143-009.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license;
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01;
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession;
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence; or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;
7. Physical or mental incapacity to practice the profession as evidenced by a

8. legal adjudication or a determination thereof by other lawful means; Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so;
9. Action taken by another jurisdiction to deny, refuse renewal, limit, suspend or revoke a license or certificate to practice podiatry, providing such action against the individual was based upon offenses specified in 172 NAC 143-009 in proceedings comparable to those provided for in Neb. Rev. Stat. § 71-155;
10. Unprofessional conduct, which term includes all acts specified in Neb. Rev. Stat. § 71-148 and such other acts as may be defined in rules and regulations adopted and promulgated by the Board with the approval of the Department;
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's professional excellence or abilities, in advertisements;
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;
14. Willful or repeated violations of the Uniform Licensing Law or these rules and regulations;
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee is not licensed or certified to practice;
16. Practicing the profession of podiatry while his/her license is suspended or in contravention of any limitation placed upon his/her license;
17. Physical or mental illness or physical or mental deterioration or disability which would render the applicant unqualified to practice podiatry; and
18. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of podiatry.

143-010 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

143-010.01 Eligibility

143-010.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

143-010.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

143-010.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 143-014; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

143-010.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 143-003.

143-010.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 143-014;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

143-010.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

143-010.02C The Department will act within 150 days on all completed applications.

143-010.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 143-010.02A and 143-010.02B are final.

143-010.03 Requirements to Move a Credential from Inactive Status to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee and any other applicable fees.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

143-010.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. List your professional practice activities since your credential was placed on inactive status;
 - f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your credential on probation?
 - (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically

impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?

- (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
- (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
- (13) Have you been convicted of a felony?
- (14) Have you been convicted of a misdemeanor?
- (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (17) Have you surrendered your state or federal controlled substances registration?
- (18) Have you had your state or federal controlled substances registration restricted in any way?
- (19) Have you been notified of any malpractice claim against you?

g. A statement describing all:

- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant.

- h. Attestation that the continuing competency requirements for renewal have been met;
2. The renewal fee and any other applicable fees.
3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

143-010.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 143-014;
2. Initial disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

143-010.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

143-010.04C In either event pursuant to 143-010.04A or 143-010.04B, a notice and the opportunity for hearing will be given to the applicant.

143-010.04D The Department will act within 150 days on all completed applications.

143-010.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet the renewal requirements must:

1. Meet the renewal requirements, including:
 - a. Meet the continuing competency requirements;
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential, or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

143-010.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. List your professional practice activities since your credential was revoked;
 - f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your credential on probation?
 - (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been denied a Federal Drug Enforcement Administration

- (DEA) Registration or state controlled substances registration?
- (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (17) Have you surrendered your state or federal controlled substances registration?
 - (18) Have you had your state or federal controlled substances registration restricted in any way?
 - (19) Have you been notified of any malpractice claim against you?
- g. A statement describing all:
- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of :
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
- h. Attestation that the continuing competency requirements for renewal have been met;
- 2. The renewal fee, the late fee of \$35 and any other applicable fees;
 - 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or

- b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 143-014 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 143-010.06B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

143-010.06A The Board's recommendation to the Department may be to:

1. Reinstatement the credential;
2. Reinstatement the credential with terms, conditions or restrictions; or
3. Deny the reinstatement.

143-010.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstatement the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 143-014 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstatement the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 143-014 if warranted; or
 - b. Deny the reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

143-010.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement as prescribed in Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the

- same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
- b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
 3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

143-010.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) List your professional practice activities since your license was revoked.
 - (6) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (a) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your credential?

- Limited Suspended Restricted Revoked
- (c) Has any licensing or disciplinary authority placed your credential on probation?
 - (d) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing agency?
 - (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you surrendered your state or federal controlled substances registration?
 - (r) Have you had your state or federal controlled substances registration restricted in any way?
 - (s) Have you been notified of any malpractice claim against you?
- (7) A statement describing all:
- (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the applicant has been convicted of a felony or misdemeanor, provide copies of :
 - [a] Official Court Record, which includes charges and disposition;

- [b] Arrest records;
 - [c] A letter from the applicant explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any health care professional credential held by the applicant during the time period since the credential was revoked; and
- [1] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (c) Disciplinary charges pending against any professional credential held by the petitioner.
- (8) Attestation that the continuing competency requirements for renewal have been met.
2. The renewal fee, the late fee of \$75 and any other applicable fees.
3. Attestation by the petitioner:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
- (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 143-014 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 143-010.08F.

143-010.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

143-010.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

143-010.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

143-010.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

143-010.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

143-010.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

143-010.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

143-010.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

143-010.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

143-010.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or

b. Grant reinstatement of the credential.

143-010.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

143-010.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

143-010.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75; and other profession-specific requirements if expressly set by law.
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

143-010.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:

- (1) Name;
- (2) Address;
- (3) Social security number; and
- (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
- (5) List your professional activities since your credential was suspended, limited or revoked;
- (6) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (a) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your credential on probation?
 - (d) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing agency?
 - (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?

- (q) Have you surrendered your state or federal controlled substances registration?
 - (r) Have you had your state or federal controlled substances registration restricted in any way?
 - (s) Have you been notified of any malpractice claim against you?
- (7) A statement describing all:
- (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner;
- (8) Any continuing competency activities.
- 2. The reinstatement fee of \$75;
 - 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

- (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 143-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
- (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 143-010.10G.

143-010.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148;
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

143-010.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

143-010.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

143-010.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

143-010.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

143-010.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

143-010.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. §71-161.04.

143-010.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

143-010.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

143-010.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or

capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

143-010.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or

capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

143-010.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

143-010.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time.

143-010.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

143-010.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. List your professional practice activities since your credential was voluntarily surrendered or limited;
 - f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority

- placed your credential on probation?
- (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (17) Have you surrendered your state or federal controlled substances registration?
 - (18) Have you had your state or federal controlled substances registration restricted in any way?
 - (19) Have you been notified of any malpractice claim against you?

g. A statement describing all:

- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- h. Any continuing competency activities;
- i. Attest:
- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

143-010.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 143-014;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

143-010.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

143-010.11A4 In either event pursuant to 172 NAC 143-010.11A2 or 143-010.11A3, a notice and the opportunity for hearing will be given to the applicant.

143-010.11A5 The Department will act within 150 days on all completed applications.

143-010.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time.

143-010.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

143-010.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 143-014.

143-010.13 Credentials Voluntarily Surrendered or Limited Permanently.

143-010.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

143-011 UNPROFESSIONAL CONDUCT: In addition to the unlawful or unprofessional acts listed in Neb. Rev. Stat. §§ 71-147 through 71-148, the following conduct will be considered unprofessional acts as defined by the Board [71-147(10)]:

143-011.01 Mode of Advertising: In the interest of protecting the public health and safety, a podiatrist must not use or participate in the use of any form of public communication or advertising containing a false, fraudulent, misleading, or deceptive statement or claim. Advertising about unlawful activities or advertising testimonials is prohibited. No podiatrist must hold himself/herself, his/her staff, his/her services, or method of delivery of podiatry services as being superior to that of other podiatry practitioners. Any statement used in an advertisement must be subject to measurement or verification.

143-011.02 Scope of Advertising.

143-011.02A Name: All advertising used in connection with a place in which podiatry is practiced must contain the name or names of all persons who operate the place of practice. Person can be an individual, partnership or corporation. The names of all podiatrists practicing in a podiatry office must be posted prominently at the entrance to the podiatry office. In the case of a professional corporation, all advertising about the podiatry office must contain the name of the

professional corporation and the names of all podiatrists who are shareholders in the corporation who practice podiatry in the podiatry office. In all cases the use of a podiatrist's name will mean the use of the full name of the podiatrist as it appears on his/her license and on his/her license renewal certificate.

143-011.02B Fee Information: Any offer in an advertisement by a podiatrist containing reference to a specific fee or price or a specific schedule of fees or prices must state the period of time during which the offer at such specified fee or price remains open for acceptance. If the advertisement does not state the period of time during which the offer at such specified fee or price remains open for acceptance, then the offer must be open for acceptance for a reasonable period of time which must not be less than 20 calendar days.

143-011.02C Referral of Patient: Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services is prohibited.

143-011.02D Media: A podiatrist must not compensate or give any thing of value to representatives of the press, radio, television, or other communication media in anticipation of and in return for professional publicity unless the fact of compensation is made known in such publicity; this provision does not apply to professional advertising on those media paid for by the podiatrist.

143-011.03 Routine Podiatry Services: A "routine podiatry service" is a podiatry service which can be performed at a set price or which can be performed within a stated period of time. A podiatrist who advertises a routine podiatry service at a set price must perform such service at the stated set price. A podiatrist who advertises a routine podiatry service to be performed within a stated period of time must perform such service within that period of time. A set price for routine podiatry services is a fixed amount (the price advertised), for which the podiatrist providing the advertising will perform all necessary component services in order to complete the routine podiatry service with competence and within the standard of expertise pertaining in the podiatry profession.

143-011.04 Specialty Podiatry Practices: A podiatrist cannot advertise a specialty in which s/he does not have competence. Whenever a podiatrist advertises a specialty for which s/he does not have current certification from or eligibility for current certification from, a specialty board recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association appropriate to that area of podiatry practice, the podiatrist must disclose that fact in the advertisement.

143-011.05 Noncompliance: Noncompliance by a licensed podiatrist with any part of 172 NAC 143-011 or the use of a false, fraudulent, misleading, or deceptive statement or claim in an advertisement by a licensed podiatrist will be considered unprofessional conduct and will subject the licensee to suspension or revocation of his/her license to practice podiatry, or to other disciplinary action against the license of the podiatrist.

143-012 REQUIREMENTS FOR PERFORMING ANKLE SURGERY

143-012.01 A podiatrist may perform surgery on the ankle only at a licensed hospital or

ambulatory surgical center. The following requirements must also be met:

- a. A podiatrist initially licensed in this state prior to September 1, 2001 must have successfully completed an advanced postdoctoral surgical residency program of at least one year's duration which is recognized as suitable for that purpose by the Board.
- b. A podiatrist initially licensed in this state on or after September 1, 2001 must have successfully completed an advanced postdoctoral surgical residency program of at least two years' duration which is recognized as suitable for that purpose by the Board.

143-013 SCHEDULE OF FEES: The following fees have been set by the Department:

143-013.01 Initial License Fee: By an applicant for a license to practice podiatry, the fee of \$325 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

143-013.02 Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$81.25 and the Licensee Assistance Program fee of \$1.

143-013.03 License Renewal Fee: By an applicant for a renewal on a biennial basis of a license to practice podiatry, the fee of \$225 and the Licensee Assistance Program fee of \$2.

143-013.04 Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.

143-013.05 Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

143-013.06 Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:

1. The basis on which a license was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the license; and
4. The current status of the license.

143-013.07 Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.

143-013.08 Duplicate License Fee: For a duplicate original license document or reissued license, the fee of \$10.

143-013.09 Administrative Fee: For a denied license or a withdrawn application, an administrative fee of \$25 will be retained by the Department, except if the fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

143-013.10 Reinstatement Late Fee: For reinstatement of a license for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

143-013.11 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.

143-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

143-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Other government records indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

143-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of

- payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
- e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

143-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

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10/30/04

Nebraska Department of Health and Human Services
Regulation and Licensure

172 NAC 155

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 155

PRACTICE OF PSYCHOLOGY

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Effective Date
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Nebraska Department of Health and Human Services
Regulation and Licensure

172 NAC 155

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 155

PRACTICE OF PSYCHOLOGY

155-001 SCOPE AND AUTHORITY: These regulations apply to licensure of psychologists as defined by Neb. Rev. Stat. §71-1,206.01 to §71-1,206.35 and the Uniform Licensing Law.

155-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-1,206.01 to 71-1,206.35 known as the Practice of Psychology section of the Uniform Licensing Law.

ASPPB means the Association of State and Provincial Psychology Boards.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Psychologists.

Board-developed Jurisprudence Examination means an examination administered orally or in writing as determined by the Board, covering the statutes, regulations governing psychology in Nebraska, and relevant federal laws and ethical standards in psychology.

CPQ means the Certificate of Professional Qualification in Psychology issued by ASPPB. Receipt of this certificate demonstrates compliance with ASPPB recommended standards for licensure as evidenced by providing original source documentation of education, training, and history of competent and ethical practice.

Client or Patient means a recipient of psychological services within the context of a professional relationship. In the case of individuals with legal guardians, including minors and incompetent adults, the legal guardian will also be considered a client or patient for decision-making purposes.

Code of Conduct means the set of regulatory rules of professional conduct which has been adopted by the Board, 172 NAC156 and 157, to protect the public welfare by providing rules that govern a professional's behavior in the professional relationship.

Completed Application means an application with all of the information requested on the application completed, the signature of the applicant, fees and all required documentation submitted.

Continuing Competency means activities to ensure:

1. The maintenance by a credentialed person of knowledge and skills necessary to competently practice psychology.
2. The utilization of new techniques based on scientific and clinical advances, and
3. The promotion of research to assure expansive and comprehensive services to the public.

It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. § 71-161.10.

Continuing Competency Activities include:

1. Developing and teaching an academic course.
2. Satisfactorily completing a graduate level academic course.
3. Authoring or editing a psychological practice oriented publication.
4. Presenting or attending workshops, seminars, symposia, colloquia, invited speaker sessions, or meetings of professional or scientific organizations.
5. Homestudy or videos.

Department means the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.

Direct Service means a variety of activities, during the internship and/or post doctoral experience, associated with a client system, including collateral contacts, for purposes of providing psychological services. Examples of direct services are:

1. Interviewing;
2. Therapy;
3. Case Conferences;
4. Behavioral Observations and Management;
5. Evaluations;
6. Treatment Planning;
7. Testing;
8. Consultations; and
9. Biofeedback.

Examples of Non-Direct Services are:

1. Insurance/Managed Care Reviews Relating to Payment Judgements;
2. Class Room Teaching;
3. Supervising Provisionally Licensed Mental Health Practitioners; and
4. Receiving Supervision.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201 for performance of the duties set out in that statute.

Doctoral Degree means a doctoral degree from a program of graduate study in professional psychology from an institution of higher education. The degree must be obtained from a program of graduate study in psychology that meets the standards of accreditation adopted by the American Psychological Association or be presented in the form of a certificate of retraining from a doctoral program in psychology which meets standards of accreditation adopted by the American Psychological Association. It is the responsibility of the applicant to provide evidence to demonstrate equivalency if the program is not accredited by the American Psychological Association.

Inactive License means the voluntary termination of the right or privilege to practice psychology. The licensee retains the right or privilege to represent himself or herself as having an inactive license.

Institution of Higher Education means a university, professional school, or other institution of higher learning that:

1. In the United States, is regionally accredited by a regional or professional accrediting organization recognized by the United States Department of Education;
2. In Canada, holds a membership in the Association of Universities and Colleges of Canada; or
3. In other countries, is accredited by the respective official organization having such authority.

Internship means a program meeting the standards of accreditation adopted by the American Psychological Association. It is the responsibility of the applicant to provide evidence to demonstrate equivalency if the program is not accredited by the American Psychological Association.

Lapsed License means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice psychology.

Licensed Psychologist means a person who is licensed to practice psychology pursuant to Neb. Rev. Stat. §71-1,206.15 and who holds a current license issued by the Department pursuant to Statute.

Any reference to a person certified to practice clinical psychology under the law in effect immediately prior to September 1, 1994, and any equivalent reference under the law of another jurisdiction, including, but not limited to, certified clinical psychologist, health care practitioner in psychology, or certified health care provider, is construed to refer to a licensed psychologist.

Major Mental and Emotional Disorders mean:

1. Any mental and emotional disorder in which the following behaviors occur or might reasonably be expected to occur regardless of specific diagnoses or the nature of the presenting complaint:
 - a. Persistent and/or severe suicidal or homicidal thinking and/or behaviors;
 - b. Persistent and/or severe behaviors injurious to self and/or others;
 - c. Psychotic symptoms which include delusions, hallucinations, or formal thought disorders; or
 - d. Physical complaints or signs suggestive of deterioration or anomaly in physiological, psychophysiological, or neuropsychological functioning.
2. The following diagnoses as referenced in the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases are major mental disorders:
 - a. Schizophrenia;
 - b. Major depressive disorder;
 - c. Bipolar disorder;
 - d. Delusional disorder;
 - e. Psychotic disorder;
 - f. Panic disorder; and
 - g. Obsessive compulsive disorder.
3. Certain diagnoses which are referenced in the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases, such as dissociative disorders, post traumatic stress disorder, dissociative identity disorder, severe eating disorder, and borderline personality disorder, are more likely than others to demonstrate one or more of the above behavioral criteria, although these diagnoses alone do not constitute a major mental disorder.
4. Persons who have exhibited behaviors consistent with a major mental disorder in the past have an increased probability of exhibiting such behaviors in the future, especially under stress.

Mental and Emotional Disorder means a clinically significant behavioral or psychological syndrome or pattern that occurs in a person and is associated with present distress or disability or with significantly increased risk of suffering death, pain, disability, or an important loss of freedom. Such disorders may take many forms and have varying causes but must be considered a manifestation of behavioral, psychological, or biological dysfunction in the person. Reasonable descriptions of the kinds and degrees of mental and emotional disorders may be found in the revisions of accepted nosologies such as the International Classification of Diseases and the Diagnostic and Statistical Manual of Mental Disorders.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 155.

National Register means the National Register of Health Service Providers in Psychology (NRHSPP). The National Register will function as a credentials bank by verifying that the psychologist applying for licensure in Nebraska has previously submitted primary source documentation demonstrating completion of specific education and training, holds an active unrestricted license, and has maintained professional and ethical standards.

National Standardized Examination means the Examination for Professional Practice in Psychology (EPPP) developed by the Professional Examination Service (PES).

Official Transcript means a document issued by and under the original seal of the educational institution.

Postdoctoral Experience means work as a psychologist under the direct supervision of a licensed psychologist qualified to offer the services provided. To be postdoctoral, the experience must follow the formal awarding of the doctoral degree by an appropriate institution of higher education. Such experience must be compatible with knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice.

Practice of Psychology means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health.

The practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and psychophysiological and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorders, alcoholism and substance abuse, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability; psychoeducational evaluation, therapy, remediation, and consultation; and supervision of qualified individuals performing services specified in 172 NAC 155.

Psychological services may be rendered to individuals, families, groups, organizations, institutions, and the public. The practice of psychology is considered within the meaning of this definition without regard to whether payment is received for services rendered.

Psychological Assistant or Psychologist Associate means an individual whose supervision is registered with the Department and who administers and scores and may develop interpretations of psychological testing under the supervision of the licensed psychologist. Such individuals must be deemed to be conducting their duties as an extension of the legal and professional authority of the supervising psychologist and must not independently provide interpretive information or treatment recommendations to clients or other health care professionals prior to obtaining appropriate supervision.

To use the title Psychologist Associate, the individual must have carried out the duties described above as part of his/her employment in an institution accredited by the Department of Public Institutions, the State Department of Education, or the Department of Correctional Services for a period of 2 years prior to September 1, 1994, may use the title psychologist associate in the

context of their employment in such settings. Use of the title must be restricted to duties described in this subdivision, and the title must be used in its entirety. Partial or abbreviated use of the title and use of the title beyond what is specifically authorized in this subdivision will constitute the unlicensed practice of psychology.

Psychologist means a person licensed to engage in the practice of psychology in this or another jurisdiction. The terms certified, registered, chartered, or any other term chosen by a jurisdiction to authorize the autonomous practice of psychology are considered equivalent terms.

Qualified Physician means an individual with a current license to practice medicine and surgery and has specialized training in mental health treatment or is a Board Certified Psychiatrist.

Reciprocity Agreement means an agreement entered into with ASPPB in order to facilitate professional mobility through the recognition by each jurisdiction that said jurisdictions meet the educational, training and examination requirements set out by ASPPB.

Regular Employment for purposes of Neb. Rev. Stat. §71-1,206.25(4) means:

1. That the work is done in the context of an employer-employee relationship;
2. That the contract is such that the school district takes legal responsibility for all actions by the school psychologist;
3. That the school system directly pays the school psychologist for all services rendered and extracts withholding under income tax provisions; and
4. That the agreed-upon school psychological services are provided in the context of a comprehensive service delivery system and are not limited to any specific type of service and include opportunities for follow-up and continuing consultation.

Representation as a Psychologist means that the person uses any title or description of services which incorporates the words psychology, psychological, or psychologist or which implies that s/he possesses expert qualification in any area of psychology or that the person offers to individuals or to groups of individuals services defined as the practice of psychology.

Special License to Practice Psychology means a license to practice those activities defined as the practice of psychology, except diagnosing and/or treating of major mental and emotional disorders. A person who holds a special license must not supervise other mental health professionals or independently evaluate persons under the Nebraska Mental Health Commitment Act.

Psychologists practicing with special licenses may continue to use the title licensed psychologist but must disclose supervisory relationships to clients or patients for whom supervision is required and to third-party payors when relevant.

Supervising Licensed Psychologist means a Nebraska licensed psychologist (not a special licensed) who holds a full and unrestricted license and provides supervision on a regularly scheduled basis.

Supervision means:

1. Provisional Psychology License: A professional relationship in which a licensed psychologist assumes full legal and professional responsibility for the work of the supervisee. The purpose of supervision is to provide training to assist the supervisee to achieve full licensure. The supervisor must:
 - a. Hold a current unrestricted Nebraska license as a psychologist;
 - b. Co-sign all clinical documentation; and
 - c. Meet with the provisional licensee at least one continuous hour per week on a regularly scheduled basis. Such meeting may include face-to-face consultation or interactive video, and must ensure confidentiality of the conversation. In the case of geographical or confirmed physical hardship, the Board may consider variance in the frequency of supervision sessions providing that a minimum of 4 hours per month of face-to-face supervision is maintained.

A primary supervisor may supervise up to 4 individuals holding either a provisional psychology license or a provisional mental health practitioner license.
2. Special Psychology License: The supervisor will be responsible for determining the extent and character of supervision, keeping in mind the education and experience of the supervisee. The supervisor assumes full legal and professional responsibility for any work by the supervisee relating to major mental disorders. In all cases the supervisor must be competent to provide the services being supervised. The supervisor must:
 - a. Hold a current unrestricted Nebraska license as a psychologist;
 - b. Co-sign all clinical documentation relating to major mental disorders; and
 - c. Meet with the supervisee at the supervisor's discretion.
3. Provisional Mental Health Practitioner: A professional relationship in which a licensed psychologist has oversight responsibility for the mental health practice of the supervisee. The purpose of supervision is to provide training to assist the supervisee to achieve full licensure as a mental health practitioner. The supervisor must:
 - a. Hold a current unrestricted Nebraska license as a psychologist; and
 - b. Meet with the provisional licensee at least one hour per week. Such meeting must be face-to-face and in accordance with 172 NAC 94, Regulations Governing the Practice of Mental Health Practice.
4. Psychological Assistant or Psychologist Associate: Is a professional relationship in which a licensed psychologist (not an individual who holds a special license to practice psychology) has oversight responsibility for the psychological work of an individual who administers and scores and may develop interpretations of psychological testing under the supervision of the licensed psychologist. Such individuals are deemed to be conducting their duties as an extension of the legal and professional authority of the supervising psychologist and must not independently provide interpretive information or treatment recommendations to clients or other health care professionals prior to obtaining appropriate supervision.

The purpose of this supervision will be to provide oversight that insures competent and ethical practice in accordance with the statutes and Code of Conduct as promulgated by this Board. The supervisor:

1. Assumes full legal and professional responsibility for the work of the supervisee and must be fully competent to provide the psychological services which are being supervised;
2. Must have a current unrestricted Nebraska license;
3. Must co-sign professional reports prepared by the associate or assistant; and
4. Must meet at least one hour per week with the supervisee. Such meeting may include face-to-face consultation, video, telephone, or other means of communication, and must ensure confidentiality of the conversation.

Verified means sworn to before a Notary Public.

155-003 LICENSE REQUIREMENTS : A person may represent him/herself to be a psychologist or engage in the practice of psychology only when s/he is licensed, except individuals who meet the criteria pursuant to Neb. Rev. Stat. § 71-1,206.25. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

155-003.01 INITIAL LICENSURE

155-003.01A Requirements: An applicant for an initial license to practice psychology must:

1. Have a doctoral degree from a program of graduate study in professional psychology from an institution of higher education as defined in 172 NAC 155-002.
 - a. The degree must be obtained from a program of graduate study in psychology that meets the standards of accreditation adopted by the American Psychological Association.
 - b. The applicant must provide evidence to demonstrate equivalency if the program is not accredited by the American Psychological Association.
 - (1) Any applicant from a doctoral program in psychology that does not meet 172 NAC 155-003.01A item 1a or 1b must present a certificate of retraining from a program of respecialization that does meet such standards;
2. Have completed two years of supervised professional experience;
 - a. One year must be an internship, which
 - (1) Is accredited by the American Psychological Association; or
 - (2) Meets the standards of accreditation adopted by the American Psychological Association, as follows:

- (a) Is at least 12 months in duration, consisting of at least 1,500 or more hours in not more than 24 months. School psychology internships may be 10 months in duration;
 - (b) The purpose of the internship is to train psychologists for the independent provision of direct psychology services;
 - (c) It is directed by a Licensed Psychologist;
 - (d) It is sequentially organized (progressively increases levels of responsibility and skills);
 - (e) Requires 4 hours of supervision per week, 2 of the 4 hours must be individual face-to-face with 2 or more supervising licensed psychologists on-site;
 - (f) Must include positions for 2 or more psychology interns;
 - (g) The transcript must show completion of practica prior to entering internship; and
 - (h) The psychology staff must include a minimum of 3 on-site supervising licensed psychologists.
- b. One year must be supervised postdoctoral experience. If the postdoctoral experience is to be earned in Nebraska, it must be:
 - (1) Registered with the Department prior to commencement in accordance with 172 NAC 155-003.02;
 - (2) Under the supervision of a licensed psychologist (a special licensed psychologist can not supervise);
 - (3) 1,500 or more hours in total duration, including 1,000 or more hours of direct service hours earned in not more than 24 months;
 - (4) Meets the standards of supervision specified in 172 NAC155-002; and
 - (5) Compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice;
- If the postdoctoral experience is earned outside of Nebraska, it must be:
 - (1) Under the supervision of a licensed psychologist or similar title in said state;
 - (2) 1,500 or more hours in total duration, including 1,000 or more hours of direct service hours earned in not more than 24 months; and
 - (3) Compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice.
- 3. Have passed the national standardized examination with a minimum score at the national pass score for all doctoral candidates and have passed the Board-developed jurisprudence examination with a score of at least 80%.
 - a. Applicants who are Board certified in an area of professional psychology by the American Board of Professional Psychology are not required to take the national standardized examination.
- 4. Have attained the age of majority and have good moral character.

155-003.01B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment A attached to these regulations and incorporated by this reference or an alternate form that contains all the same information. Only applications which are complete will be considered;
2. An official transcript showing proof of a doctoral degree in psychology. The transcript must be submitted directly by the institution of higher education issuing the transcript or ASPPB's credentialing data bank or the National Register. ASPPB and the National Register are sources of primary verification;
3. Official documentation of passing the national standardized examination or evidence of certification by the American Board of Professional Psychology and official documentation of passing the Board-developed jurisprudence examination. If the examination was taken in a State other than Nebraska, said documentation of passing the examination must be submitted directly by the Professional Examination Service or current examination vendor/owner as approved by the Board;
4. A complete affidavit of internship on Attachment A4 attached to these regulations and incorporated by this reference or an alternate form that contains all the same information. Affidavits must be submitted directly by the supervisor/internship Director;
5. A complete affidavit of supervised postdoctoral experience on Attachment A5 attached to these regulations and incorporated by this reference or an alternate form that contains all the same information. Affidavits must be submitted directly by the supervisor;
6. Evidence of having attained at least the age of majority, examples are:
 - a. Driver's license;
 - b. Marriage certificate / divorce decree;
 - c. Transcript which contains birth date; or
 - d. Other similar documentation;
7. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
8. If the applicant has been convicted of a felony or misdemeanor:
 - (a) Official Court Record, which includes charges and disposition;
 - (b) Copies of arrest records;
 - (c) A letter from the applicant explaining the nature of the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (e) A letter from the probation officer addressing the probationary conditions and current status, if the applicant is currently on probation;

9. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license;
or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
10. The required license fee.

155-003.01C Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

155-003.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 155-012, or such other action as provided in the statutes and regulations governing the credential.

155-003.01E Department Review: The Department will act within 150 days upon all completed applications for license.

155-003.02 PROVISIONAL LICENSURE: A person who needs to obtain the one-year of postdoctoral experience must obtain a provisional license. Hours may not be earned prior to issuance of a provisional license.

155-003.02A Requirements: An applicant for a provisional license must:

1. Have a doctoral degree from a program of graduate study in professional psychology from an institution of higher education as defined in 172 NAC 155-002.
 - a. The degree must be obtained from a program of graduate study in psychology that meets the standards of accreditation adopted by the American Psychological Association;
 - b. The applicant must provide evidence to demonstrate equivalency if the program is not accredited by the American Psychological Association;
 - (1) Any applicant from a doctoral program in psychology that does not meet 172 NAC 155-003.02A item 1a or 1b must present a certificate of retraining from a program of respecialization that does meet such standards;
2. Have completed a one year internship, which:
 - (a) Is accredited by the American Psychological Association; or
 - (b) Meets the standards of accreditation adopted by the American Psychological Association as follows:

- (1) Is at least 12 months in duration, consisting of at least 1,500 or more hours in not more than 24 months. School psychology internships may be 10 months in duration;
 - (2) The purpose of the internship is to train psychologists for the independent provision of direct psychology services;
 - (3) It is directed by a Licensed Psychologist;
 - (4) It is sequentially organized (progressively increases levels of responsibility and skills);
 - (5) Requires 4 hours of supervision per week, 2 of the 4 hours must be individual face-to-face with 2 or more supervising licensed psychologists on-site;
 - (6) Must include positions for 2 or more psychology interns;
 - (7) The transcript must show completion of practica prior to entering internship; and
 - (8) The psychology staff must include a minimum of 3 on-site supervising licensed psychologists; and
3. Be of the age of majority and of good moral character.

155-003.02B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment B attached to these regulations and incorporated by this reference or an alternate form that contains all the same information. Only applications which are complete will be considered;
2. An official transcript showing proof of a doctoral degree in psychology. The transcript must be submitted directly by the institution of higher education issuing the transcript or ASPPB's credentialing data bank or the National Register. ASPPB and the National Register are sources of primary verification;
3. Evidence of having attained at least the age of majority, examples are:
 - a. Driver's license;
 - b. Marriage certificate / divorce decree;
 - c. Transcript which contains birth date; or
 - d. Other similar documentation;
4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
5. If the applicant has been convicted of a felony or misdemeanor:
 - (a) Official Court Record, which includes charges and disposition;
 - (b) Copies of arrest records;
 - (c) A letter from the applicant explaining the nature of the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (e) A letter from the probation officer addressing the probationary conditions and current status, if the applicant is currently on probation; and

6. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license;
or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license.

7. The required provisional license fee.

155-003.02C Compliance with Supervisory Requirements: The supervisor and applicant must comply with the supervisory requirements specified in 172 NAC 155-002.

155-003.02D Re-issuance: The provisional license may be re-issued one time, upon approval by the Board and submission of a new application pursuant to this section.

155-003.02E Termination of Supervision: If a supervisor of a provisional licensee terminates supervision, s/he must immediately notify the Department in writing of the date of termination. The Department will record said termination date in the record.

155-003.02F Change of or Additional Supervisor(s): If a change in or additional supervisor(s) occurs, the provisional licensee must file an application with the Department which reflects said change on Attachment B or an alternate form which contains the same information.

155-003.02G Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 155-012, or such other action as provided in the statutes and regulations governing the credential.

155-003.02H Department Review: The Department will act within 150 days upon all completed applications for license.

155-003.03 TWENTY YEARS OF PSYCHOLOGY LICENSURE: Procedures for Issuance of a License to Practice Psychology for Persons who have at Least 20 years of Licensure to Practice Psychology in the United States or Canada

155-003.03A Requirements: An applicant must:

1. Hold a current license based on a doctoral degree in psychology;
2. Have at least 20 years of licensure to practice psychology in the United States or Canada;
3. Have had no disciplinary sanction during the entire period of licensure;
4. Have passed the Nebraska Board-developed jurisprudence examination with a minimum score of 80%; and
5. Be of good moral character.

155-003.03B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment D attached to these regulations and incorporated by this reference or an alternate form that contains all the same information. Only applications which are complete will be considered;
2. An official transcript showing proof of a doctoral degree in psychology. The transcript must be submitted directly by the institution of higher education issuing the transcript or ASPPB's credentialing data bank or the National Register. ASPPB and the National Register are sources of primary verification;
3. Verification of holding a current license based on a doctoral degree in psychology;
4. Official documentation verifying the licensee has had no disciplinary action during the entire period of licensure on Attachment D1 attached to these regulations and incorporated by this reference or an alternate form that contains all the same information;
5. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
6. If the applicant has been convicted of a felony or misdemeanor:
 - (a) Official Court Record, which includes charges and disposition;
 - (b) Copies of arrest records;
 - (c) A letter from the applicant explaining the nature of the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (e) A letter from the probation officer addressing the probationary conditions and current status, if the applicant is currently on probation;
7. Official documentation of passing the Board-developed jurisprudence examination;
8. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
9. The required licensure fee.

155-003.03C Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

155-003.03D Administrative Penalty/Other Action: An individual who practices prior to

issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 155-012, or such other action as provided in the statutes and regulations governing the credential.

155-003.03E Department Review: The Department will act within 150 days upon all completed applications for license.

155-004 RECIPROCITY (LICENSURE MOBILITY) LICENSURE REQUIREMENTS: An applicant for a license to practice psychology on the basis of licensure from another jurisdiction may reciprocate licensure to Nebraska, if the requirements for a license in the other jurisdiction are equal to or exceed the requirements for licensure in Nebraska. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

155-004.01 Reciprocity

155-004.01A Requirements: An applicant for a license to practice psychology based on reciprocity must:

1. Provide documentation that the standards regulating the practice of psychology in the other jurisdiction are equivalent to those maintained in Nebraska as evidenced by:
 - a. Holding the ASPPB Certificate of Professional Qualification (CPQ);
 - b. Licensure in a state participating in the ASPPB Reciprocity Agreement;
 - c. A current credential at the doctoral level as a Health Service Provider by the National Register of Health Service Providers; or
 - d. Meeting the requirements for initial licensure as specified in 172 NAC 155-003.01;
2. Successfully pass of the Board-developed jurisprudence examination with a score of at least 80%; and
3. Have been in the active and continuous practice under license or certification in the State, territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure.

155-004.01B Application Process: The following must be submitted to the Department:

1. A complete application on a form provided by the Department, as Attachment A or an alternate form that contains the same information. Only applications which are complete will be considered;
2. Evidence of:
 - a. Holding the ASPPB Certificate of Professional Qualification (CPQ);
 - b. Licensure in a state participating in the ASPPB Reciprocity Agreement;

- c. A current credential at the doctoral level as a Health Service Provider by the National Register of Health Service Providers; or
 - d. Meeting the requirements for initial licensure as specified in 172 NAC 155-003.01 for initial licensure;
3. Evidence of having attained at least the age of majority, examples are:
 - a. Driver's license;
 - b. Marriage certificate / divorce decree;
 - c. Transcript which contains birth date; or
 - d. Other similar documentation;
 4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 5. If the applicant has been convicted of a felony or misdemeanor:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - e. A letter from the probation officer addressing the probationary conditions and current status, if the applicant is currently on probation;
 6. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license;
 7. The required licensure fee; and
 8. Documentation that the applicant has been in the active and continuous practice under license or certification in the State, territory, or District of Columbia from which s/he comes for at least one year; and has been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure.

155-004.01C If the application is not based on a CPQ, National Register, or Reciprocity Agreement, the applicant must have the licensing or certifying agency submit to the Department:

1. A certification that the applicant is duly licensed or certified, that his or her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement on Attachment A3 attached to these regulations and incorporated by this reference or an alternate form that includes the same information;

2. The nature of disciplinary actions or pending disciplinary actions, if any, taken against the applicant's license or certificate;
3. The date of the applicant's initial license or certification;
4. The name of the examination on which licensure or certification was based;
5. The score attained on the examination; and
6. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued.

155-004.01D If the applicant's license or certification was based on an examination other than the national standardized examination, the applicant must take the national standardized licensure examination.

1. Applicants who are Board certified in an area of professional psychology by the American Board of Professional Psychology are not required to take the national standardized examination.

155-004.01E Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in Psychology in Nebraska and will make a recommendation to the Department.

155-004.01F Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.

155-004.01G Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 155-012, or such other action as provided in the statutes and regulations governing the credential.

155-004.01H Department Review: The Department will act within 150 days upon all completed applications for license.

155-004.02 Temporary License

155-004.02A Requirements: A psychologist licensed under the laws of another jurisdiction may be authorized by the Board to practice psychology for a maximum of one year pending successful passage of the board-developed jurisprudence examination. An applicant must:

1. Have made application, in accordance with 172 NAC 155-004.01, to the Board for licensure as a Psychologist in Nebraska and such application has been approved by the Board;

2. Have met the educational and experience requirements for licensure in Nebraska as defined in 172 NAC 155-003.01A1 and 155-003.0101A2;
3. Hold a current license in another jurisdiction;
4. Have not been the subject of past or pending disciplinary action in this or another jurisdiction; and
5. Submit the required fee.

155-004.02B The Board will review the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are equal to or exceed the requirements for licensure in Nebraska and to ascertain that the applicant has met the educational and experience requirements for licensure in Nebraska.

155-004.02C Upon determination that the applicant has met the requirements of this section, the Board will issue a letter authorizing the practice of psychology for a maximum of one year. This authorization will automatically expire upon issuance/denial of licensure to practice psychology in Nebraska or upon expiration of the one-year period, whichever occurs first.

155-004.02D The applicant must have successfully passed the Board-developed jurisprudence examination with a minimum score of 80% prior to issuance of a license to practice psychology in Nebraska.

155-004.02E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 155-012, or such other action as provided in the statutes and regulations governing the credential.

155-004.02F Department Review: The Board will act within 150 days upon all completed applications for licensure.

155-004.03 THIRTY DAYS PRACTICE WITHIN A ONE YEAR PERIOD: A person holding a doctoral degree in psychology from an institution of higher education who is licensed as a psychologist under the laws of another jurisdiction and who provides no more than an aggregate of 30 days of professional services as a psychologist during the 12 month period beginning with the first date of issuance may be issued a letter to practice.

155-004.03A Requirements: The applicant must hold a current license in another jurisdiction.

155-004.03B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment Q attached to these regulations and incorporated by this reference or an alternate form which includes the same information. Only applications which are complete will be considered;

2. Evidence of the nature and location of his/her practice in Nebraska;
3. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
4. If the applicant has been convicted of a felony or misdemeanor:
 - (a) Official Court Record, which includes charges and disposition;
 - (b) Copies of arrest records;
 - (c) A letter from the applicant explaining the nature of the conviction;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (e) A letter from the probation officer addressing the probationary conditions and current status, if the applicant is currently on probation;
5. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
6. Have the licensing agency submit Attachment Q1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information. The certification must certify:
 - a. That the applicant is duly licensed, that his/her license has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement; and
 - b. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued.

155-004.03C Board Review: The Board will review the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are equal to or exceed the requirements for licensure in Nebraska.

155-004.03D Issuance of Letter: Upon determination that the applicant has met the requirements of this section, the Board will issue a letter permitting the practice of psychology for an aggregate of 30 days within the subsequent year. The letter permitting the practice will automatically expire one year from the date of issuance. An individual's permission to practice under this section may be revoked if it is determined by the Department that s/he has engaged in conduct defined as illegal, unprofessional, or unethical under the statutes and rules and regulations governing the practice of psychology in Nebraska.

155-004.03E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 155-012, or such other action as provided in the statutes and regulations governing the credential.

155-004.03F Board Recommendation: The Board will act within 150 days upon all completed applications for temporary practice.

155-005 SUPERVISORY REGISTRATION – SPECIAL LICENSED PSYCHOLOGISTS, PSYCHOLOGICAL ASSISTANTS, PSYCHOLOGIST ASSOCIATES, AND PROVISIONAL MENTAL HEALTH PRACTITIONERS

155-005.01 The following individuals must submit a supervisory registration form, prior to commencing practice, on Attachment E attached to these regulations and incorporated by this reference or an alternate form which contains the same information:

1. Special licensed psychologists who wish to diagnose and treat major mental and emotional disorders; or
2. Psychological Assistants and Psychologist Associates.

155-005.02 Supervisors of provisionally licensed mental health practitioners who are obtaining the required experience for licensure pursuant to Neb. Rev. Stat. §71-1,314(1)(b) must submit the appropriate application as specified in 172 NAC 94.

155-005.03 Procedures for Supervisory Registrations:

1. Special Licensed Psychologists: An applicant must:
 - a. Hold a current Special License as a Psychologist; and
 - b. Submit to the Department:
 - (1) A complete application on Attachment E, or an alternate form which contains the same information;
 - (2) Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for registration; or
 - b. To the actual number of days practiced in Nebraska prior to the application for registration, and
 - (3) The required supervisory registration fee.
2. Psychological Assistants and Psychologist Associates: An applicant must:
 - a. Have a Master's Degree from an approved program as defined in 172 NAC 155-002, in clinical psychology, counseling psychology, or educational psychology or an Educational Specialist Degree in School Psychology; and
 - b. Submit to the Department:
 - (1) A complete application on Attachment E, or an alternate form which contains the same information;
 - (2) An official transcript showing proof of a Doctoral degree in psychology. The transcript must be submitted directly by the institution of higher education issuing the transcript;
 - (3) Attestation by the applicant:

- a. That s/he has not practiced in Nebraska prior to the application for registration; or
 - b. To the actual number of days practiced in Nebraska prior to the application for registration; and
- (4) The required supervisory registration fee.

155-005.04 Termination of Supervision: If a supervisor or registrant terminates supervision, s/he must notify the Department in writing immediately of the date of termination. The Department will record said termination date in the record.

155-005.05 Change of or Additional Supervisor(s): If a change supervisors occurs or additional supervisors are added, the registrant must file an application with the Department which reflects said change on Attachment E or an alternate form which contains the same information.

155-005.06 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 155-012, or such other action as provided in the statutes and regulations governing the credential.

155-005.07 Department Review: The Department will act within 150 days upon all completed applications for registration.

155-006 EXAMINATION

155-006.01 Eligibility – National Standardized Examination: To be eligible to take the national standardized examination, an applicant must have met all the requirements for licensure that are specified in 172 NAC 155-003.01, 155-003.02, or 155-003.03, with the exception of completion of the post-doctoral experience and passage of the national standardized examination and the Board-developed jurisprudence examination. An applicant for initial licensure must also have been issued a provisional license.

155-006.02 Eligibility – Board-Developed Jurisprudence Examination: To be eligible to take the Board-developed jurisprudence examination, an applicant must have met all the requirements for licensure that are specified in 172 NAC 155-003.01, 155-003.02, or 155-003.03, with the exception of completion of the post-doctoral experience and passage of the Board-developed jurisprudence examination and the national standardized examination. An applicant for initial licensure must also have been issued a provisional license.

155-006.03 Administration: The examinations will be administered as follows:

1. The national standardized examination will be administered by the Association of State and Provincial Psychology Boards (ASPPB);
 2. The Board-developed jurisprudence examination will be administered by the Department at least 4 times per year. The applicant will be notified of the date, time, place and other information pertinent to the administration of the examination;
4. The Department will notify the applicant in writing of the national standardized examination and the Board-developed jurisprudence examination results within 6 to 8 weeks following the administration of the examinations;

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4. If the Board-developed jurisprudence examination is failed, the examinee may retake it without charge;
5. An applicant for a license who withdraws his/her application or whose application is rejected by the Department will be allowed the return of his/her fee, except for an administrative fee of \$25.00 to be retained by the Department; and
6. An applicant taking the Board-developed jurisprudence examination must submit a complete Board developed examination application on Attachment R attached to these regulations and incorporated by this reference or an alternate form which contains the same information; and
7. If applicable, the applicant must submit a completed request for special accommodations on Attachment P attached to these regulations and incorporated by this reference or an alternate form that contains all the same information.

155-007 LICENSE RENEWAL PROCEDURES: All licenses issued by the Department under the Act and 172 NAC 155 will expire January 1 of each odd-numbered year.

155-007.01 Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements as specified in 172 NAC 155-009;
2. Pay the renewal fee as prescribed in 172 NAC 158; and
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing 24 hours of continuing competency earned within 24 months of the date of expiration or an application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing the probationary conditions and current status, if the licensee is currently on probation.

155-007.02 First Notice: At least 30 days before January 1st of each odd-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

155-007.02A The renewal notice will specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 158;
6. The option to place the license on either inactive or lapsed status; and
7. The number of continuing competency hours required for renewal.

155-007.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing 24 hours of continuing competency earned with 24 months of the date of expiration or application for a waiver of the continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

155-007.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

155-007.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

155-007.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with 172 NAC 155-007.01 that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 155-012 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25 and documentation of continuing competency hours within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 155-008.

155-007.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number
4. Attestation by the licensee that:
 - a. That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing 24 hours of continuing competency earned with 24 months of the date of expiration or an application for waiver of the continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

155-007.03B If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

155-007.03C The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

155-007.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

155-007.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

155-007.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 155-007.04 and 155-007.05 will not apply.

155-007.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of the license. Such refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure for the Department.

155-007.08 An individual who practices after expiration of his/her credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 155-012, or such other action as provided in the statutes and regulations governing the credential.

155-008 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:
The Department may revoke a credential when the licensed psychologist or special licensed psychologist fails to meet the renewal requirements.

155-008.01 Revocation for Nonpayment of Renewal Fee or Late Fee, or Failure to Submit Documentation of Continuing Competency within Thirty Days of Expiration of the License

155-008.01A When a credential holder fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

155-008.01A1 A post revocation notice will be sent which will specify that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential holder failed to renew the credential or to request that his/her credential be placed on inactive or lapsed status;
3. The Department has revoked the credential; and
4. The credential holder has a right to request reinstatement of the credential.

155-008.02 Revocation for Failure to Meet Continuing Competency Requirements

155-008.02A When a credential holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

155-008.02A1 The revocation notice for failure to meet continuing competency requirements specifies that:

1. The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive or lapsed status;
3. The credential has been revoked for failure to meet continuing competency requirements within thirty days after expiration of the credential and that the revocation will become final unless a request for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
4. The credential holder has a right to request reinstatement of the credential after revocation.

155-009 CONTINUING COMPETENCY REQUIREMENTS

155-009.01 General Requirements: On or before January 1 of each odd numbered year, each psychologist who is in active practice in the State of Nebraska must:

155-009.01A Complete 24 hours of professional activities directed at maintaining continuing competency during the preceding 24 month period. Additional hours earned during this period which are above and beyond the required 24 hours cannot be utilized for subsequent renewals.

1. No more than the total number of approved hours offered in Nebraska to renew the license will be required during this period.

155-009.01B At the time of renewal, the licensee must submit to the Department the renewal notice with an attestation by the licensee that:

1. States s/he has met the continuing competency requirements; and
2. Indicates the number of credits/hours in one or more of the following competency areas:
 - a. Developing and teaching an academic course;
 - b. Satisfactorily completing a graduate level academic course;
 - c. Authoring or editing a psychological practice oriented publication;
 - d. Presenting or attending workshops, seminars, symposia, colloquia, invited speaker sessions, meetings of professional or scientific organizations; or
 - e. Homestudy or videos.

155-009.01C A psychologist must maintain documentation of attendance at continuing competency activities

155-009.01D Continuing competency activities must directly relate to the definition of psychology. Continuing competency hours will be determined as follows:

1. Developing and teaching an academic course in an institution accredited by a regional accrediting agency. Credit will be granted only for the first time the licensee teaches the course during the renewal period and can not be used for subsequent renewal periods.
 - a. 1 semester hour of graduate academic credit equals 15 hours continuing competency credit.
2. Satisfactorily completing a graduate level course offered by an institution accredited by a regional accrediting agency. Credit will be granted only for the first time it is completed, and it must be completed during the renewal period for which it is submitted.
 - a. 1 semester hour of graduate academic credit equals 15 hours of continuing competency credit.
3. Authoring or editing a peer-reviewed psychological practice oriented publication. Continuing competency credit may be earned only in the year of publication or first distribution.
 - a. Senior/1st author of a peer-reviewed psychological practice oriented professional or scientific book equals 16 hours of competency credit;
 - b. Senior/1st author of a peer-reviewed psychological practice oriented professional or scientific book chapter equals 8 hours of continuing competency credit;
 - c. Senior/1st author of a peer-reviewed psychological practice oriented professional journal article equals 8 hours of continuing competency credit; and
 - d. Editor of a peer-reviewed psychological practice oriented professional or scientific book/journal equals 16 hours of continuing competency credit.
4. Presenting or attending workshops, seminars, symposia, colloquia, invited speaker sessions, meetings of professional or scientific organizations, homestudy, or videos.
 - a. 60 minutes of presentation or attendance equals 1 hour of continuing competency credit.
 - b. Only activities approved by the following organizations are acceptable:
 - (1) The American Psychological Association (APA);
 - (2) The American Medical Association; (AMA) Nebraska Medical Association (NMA)
 - (3) The American Nurses Credentialing Center's Commission on Accreditation;
 - (4) Nebraska Nurses Association (NNA);
 - (5) National Association of Alcohol and Drug Abuse Counselors (NAADAC) or Nebraska Certified Alcohol and Drug Abuse Counselors (NCADAC);

- (6) National Association of Social Workers (NASW);
- (7) National Counselors Association (NCA); or
- (8) National Association of Marriage and Family Therapists (NAMFT).

155-009.02 Audit of Continuing Competency: The Board may select in a random manner a sample of the license renewal applications for audit of continuing competency credits. Each licensee is responsible for maintaining in his/ her personal files such certificates or records of credit from continuing competency activities received from providers. Licensees selected for audit must produce documentation of his/her attendance at those continuing competency activities attested to on his/her renewal application.

1. When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in approved continuing competency activities attested to on the licensee's renewal. Satisfactory documentation includes, but is not limited to, certificates of attendance, or certified attendance rosters, or letters from sponsors of continuing competency activities, which verify attendance/completion.
2. The Board reserves the right to audit the continuing competency attestation of any licensee by notifying the licensee and requesting the licensee to produce within 30 days of mailing, documents verifying attendance/completion of acceptable continuing competency programs.
3. Continuing competency hours for which no documentation of attendance/completion is produced will not be included in the calculation of the total of continuing competency hours earned.
4. Failure to comply with the audit will result in non-renewal of the license.

155-009.03 Waiver of the Continuing Competency: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any two-year period or for the period of time since the license was last issued when a licensee submits documentation that circumstances beyond his/her control prevented him/her from completing such requirements. Any licensee who seeks a waiver of the continuing competency must complete the appropriate request on the renewal form which must be received by the Department on or before January 1st of the year the license is subject to renewal.

155-009.03A Circumstances and documentation required follows. The licensee must:

1. Hold a Nebraska license but have not engaged in the practice of psychology for the 24 months preceding renewal; or
2. Have been in the service of the regular armed forces of the United States during any part of the period since his/her license was issued or last renewed. If this waiver is granted, the renewal fee is also waived;
 - a. Submit to the Department official documentation stating dates of service; or
3. Be a legal resident of another state, territory, or the District of Columbia and have not practiced as a psychologist in the State of Nebraska since his/her license was issued or last renewed; or

4. Have been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing competency hours since his/her license was issued or last renewed;
 - a. Submit to the Department a statement from a physician stating that the licensee was injured or ill, the duration of the illness or injury and the recovery period; and that the licensee was unable to attend continuing competency activities during that period; or
5. Have been first licensed within 24 months immediately preceding the license or renewal date.

155-009.03B The Department may, upon the recommendation of the Board, grant or deny an application for waiver of the continuing competency requirements.

1. When the Department determines to deny an application for waiver of the continuing competency requirements, it will send to the applicant by certified mail to the last name and address of record in the Department a notice setting forth the reasons for the denial determination.
 - a. The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with 184 NAC 1 Rules of Practice and Procedure for the Department.
 - b. At the conclusion of the appeal pursuant to 184 NAC 1, the Department will issue a final order setting forth the results of the appeal.

155-009.03C When the Department determines to grant a waiver of the continuing competency, the applicant will be notified within 30 days of receipt of the application.

155-010 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF OR DISCIPLINE A LICENSEE

155-010.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure as specified in 172 NAC 155-003 through 155-004, or is found to be in violation of any of the grounds listed in 172 NAC 155-010.03.

155-010.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements specified in 172 NAC 155-007 or 155-009, or in 172 NAC 155-010.03.

155-010.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds and those specified in Neb. Rev. Stat. §71-147:

1. Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license.
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this State.

3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. §71-172.01.
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession.
5. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With manifest incapacity,
 - d. With gross incompetence or with gross negligence, or
 - e. In a pattern of negligent conduct. Patterns of negligent conduct means a continued course of negligent conduct in performing the duties of the profession.
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license by a person not licensed to do so.
9. Having had his/her license denied, refused renewal, limited, suspended or revoked, or having had such license disciplined in any other manner in accordance with Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice psychology, based upon acts by the applicant or licensee similar to acts described in 172 NAC 155-010.
10. Unprofessional conduct, which term includes all acts specified in Neb. Rev. Stat. § 71-148 or such other acts as are defined in 172 NAC 156 and 172 NAC 157.
11. Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims concerning such licensee's professional excellence or abilities, in advertisements.
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act.
13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes.
14. Willful or repeated violations of the Uniform Licensing Law or 172 NAC 155.
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee is not licensed to practice.

16. Failure to file a report required by Neb. Rev. Stat. § 71-168.
17. Practicing the profession of psychology while his or her license is suspended or in contravention of any limitation placed upon his or her license.
18. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed.

155-011 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

155-011.01 Eligibility

155-011.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

155-011.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

155-011.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 155-012; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

155-011.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have his/her credential restored from lapsed to active status by the Department upon proof to the Department that s/he meets the requirements pursuant to 172 NAC 155-003.01.

155-011.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 155-012;

2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

155-011.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status;
or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

155-011.02C The Department will act within 150 days on all completed applications.

155-011.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 155-011.02A and 155-011.02B are final.

155-011.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and any other applicable fees; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

155-011.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:

- [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential
 - (b) by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
- f. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee and any other applicable fees; and
 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

155-011.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 155-012;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

155-011.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

155-011.04C In either event pursuant to 172 NAC 155-011.04A or 155-011.04B, a notice and the opportunity for hearing will be given to the applicant.

155-011.04D The Department will act within 150 days on all completed applications.

155-011.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

155-011.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - [a] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and

- disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees; and
 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked, the Department may assess an Administrative Penalty pursuant to 172 NAC 155-012 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 155-011.06B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

155-011.06A The Board's recommendation to the Department may be to:

1. Reinstatement of the credential;
2. Reinstatement of the credential with terms, conditions or restrictions; or
3. Denial of reinstatement.

155-011.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstatement of the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 155-012 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstatement of the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 155-012 if warranted; or
 - b. Denial of reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

155-11.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

155-011.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements. An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;

- [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.
- (6) Verification that the continuing competency requirements for renewal have been met;
- 2. The renewal fee, the late fee of \$75 and any other applicable fees; and
 - 3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 155-012 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 155-011.08E.

155-011.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

155-011.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

155-011.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

155-011.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

155-011.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

155-011.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

155-011.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submit its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

155-011.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential; or
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

155-011.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

155-011.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

155-011.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

155-011.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

155-011.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement:
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

155-011.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;

- [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner;
 - (6) Any continuing competency activities;
2. The reinstatement fee of \$75; and
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 155-012 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 155-011.10G.

155-011.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any

combination of such examinations; or

4. Require the petitioner to complete additional education.

155-011.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

155-011.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

155-011.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

155-011.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

155-011.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

155-011.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of such petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

155-011.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

155-011.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

155-011.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:

- (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse, or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence in view of the entire record; or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

155-011.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's

recommendation for reinstatement.

3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.

4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence in view of the entire record; or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

155-011.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

155-011.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

155-011.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

155-011.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and

- d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
- f. Any continuing competency activities; and
- g. An attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

155-011.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 155-012;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

155-011.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

- 1. Initiate disciplinary action against the credential;

2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

155-011.11A4 In either event pursuant to 172 NAC 155-011.11A2 or 155-011.11A3, a notice and the opportunity for hearing will be given to the applicant.

155-011.11A5 The Department will act within 150 days on all completed applications.

155-011.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

155-011.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.

155-011.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 155-012.

155-011.13 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

155-012 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

155-0012.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

155-012.02 Penalty: The Department may assess an administrative penalty in the amount of

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10/30/04

Department of Health and Human Services
Regulation and Licensure

172 NAC 155

\$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property; and
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

155-012.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and 184 NAC 1, Rules of Practice and Procedure before the Department.

These Rules and Regulations amend 172 NAC 155, which were last filed with the Secretary of State on July 24, 1996 and became effective July 29, 1996.

Approved by the Attorney General: September 27, 2004
Approved by the Governor: October 25, 2004
Filed with the Secretary of State: October 25, 2004
EFFECTIVE DATE: October 30, 2004

Forms referred to in the body of these regulations are available upon request.

TITLE 172, NEBRASKA DEPARTMENT OF HEALTH PROFESSIONAL
AND OCCUPATIONAL LICENSES REGULATIONS

CHAPTER 156

**REGULATIONS DEFINING
UNPROFESSIONAL CONDUCT BY A PSYCHOLOGIST**



Department of Health
Professional and Occupational Licensure Division
Nebraska State Office Building, P.O. Box 94986
Lincoln, Nebraska 68509-4986
Telephone Number: (402) 471-2117

1992 AMENDMENT

Effective Date: November 7, 1992

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TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH PROFESSIONAL AND OCCUPATIONAL
LICENSES REGULATIONS

CHAPTER 156 - REGULATIONS DEFINING UNPROFESSIONAL CONDUCT BY A PSYCHOLOGIST

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TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH PROFESSIONAL AND OCCUPATIONAL
LICENSES REGULATIONS

CHAPTER 156 - REGULATIONS DEFINING UNPROFESSIONAL CONDUCT BY A PSYCHOLOGIST

001 SCOPE OF REGULATIONS. These regulations are intended to define and set forth what constitutes unprofessional conduct pursuant to the Uniform Licensure Law and Neb. Rev. Stat. 71-1,206 to 71-1,226.

002 DEFINITIONS.

002.01 Client means any person with whom the Psychologist has an agreement to provide psychological services.

002.02 Clinical Psychology means that branch of psychology concerned with the assessment, diagnosis, and treatment of mental, emotional and behavioral disorders.

002.03 Psychological services shall be the provision of services in the practice of psychology.

002.04 Unprofessional conduct is conduct which fails to conform to the accepted standards for the psychology profession and which could jeopardize the health safety and welfare of the client and shall include but not be limited to the conduct described in these regulations and Neb. Rev. Stat. 71-148.

003 INFORMED CONSENT. A psychologist shall obtain from a client or his or her legal representative informed and voluntary consent before providing or assisting in the care of treatment of the client. Failure to do so shall constitute unprofessional conduct. A client shall be deemed to have not given his or her informed and voluntary consent if the psychologist:

003.01 Fails to advise a client of a conflict of interest. A conflict of interest exists if the exercise of the psychologist's professional judgment on behalf of the client will be or reasonably will be impaired or adversely affected by his or her own financial, business, property or personal interest.

003.02 Fails to clarify the nature of the relationship to all parties directly affected by the services.

003.03 Fails to advise a client of a known bias or prejudice which seriously affects the psychologist's objectivity in dealing with the client.

004 COMPETENCE. A psychologist shall not provide services or use techniques for which he or she is not trained or experienced. Unprofessional conduct in the practice of psychology shall include but is not limited to:

004.01 Failure to consider a client as an individual and imposing on the client any stereotypes of behavior, values or roles related to age, gender, religion, race, disability, nationality or sexual orientation which would unreasonably interfere with the objectivity provision of psychological services to the client.

004.02 Making decisions involving clients based on test results for which the psychologist has made an interpretation in an area or areas where he or she is not trained or experienced.

004.03 Making decisions involving clients based on interpretations of test results by others whom the psychologist knows are not adequately trained or experienced.

004.04 Providing psychological services in which his or her serious personal problems may cause a competent psychologist to believe it will lead to inadequate performance or harm to a client, colleague, student, or research participant.

004.05 Willful or gross neglect of a client of record.

004.06 Terminating a relationship which a client without informing the client of such termination and providing the client with information regarding adequate alternatives for treatment.

004.07 Failing to take appropriate care when working with minors or other persons who are unable to give voluntary, informed consent, to protect their best interests.

005 PUBLIC STATEMENTS. A psychologist shall be accurate and objective when advertising regarding professional services or products. Unprofessional conduct includes but is not limited to:

005.01 Advertising of psychological products or services which contain: A) a false, fraudulent, misleading, deceptive statement; B) a testimonial from a patient which attests to performance of superior performance of professional service of psychologist's services; C) a statement guaranteeing any professional services; D) a statement intended or likely to appeal to a client's fears, anxieties, or emotions concerning the possible results of failure to obtain the offered services; E) a statement concerning the comparative desirability of offered services; F) a statement of direct solicitation of individual clients.

005.02 Giving anything of value to a representative of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item.

005.03 Advertising for "personal growth groups", clinics, and agencies without a clear statement of purpose and a clear description of the services to be provided.

005.04 advertising for psychological devices, books or other products offered for commercial sale without making reasonable efforts to ensure presentation of nondeceptive, accurate, or nonmisleading statements.

005.05 Knowingly permitting others to misrepresent the psychologist's professional qualifications or the psychologist's affiliation with products or services for personal gain of the psychologist.

005.06 Providing individual formal diagnostic or formal therapeutic services outside the context of the psychologist/client relationship.

005.07 Making deceptive or misleading representations of the psychologist's education, training, or experience.

006 CONFIDENTIALITY. A psychologist shall hold in confidence information obtained from a client, except in those unusual circumstances in which to do so would result in clear danger to the person or to others or where otherwise required by law. Failure to do so shall constitute unprofessional conduct.

007 PROFESSIONAL RELATIONSHIPS. A psychologist shall safeguard the welfare of clients and maintain appropriate professional relationships with clients and research participants. Unprofessional conduct includes but is not limited to:

007.01 Using skills of the psychologist to exploit clients.

007.02 Failure to terminate a clinical or consulting relationship with a client when the client is clearly and convincingly not benefiting from it.

007.03 Intentional failure to report to the Board of Examiners of Psychologists known unprofessional conduct by a psychologist. Information that becomes known to a psychologist in the course of psychotherapy and is otherwise subject to the protection of confidentiality is exempt from this provision.

007.04 Abandoning or neglecting a client with whom a professional relationship exists.

008 SEXUAL MISCONDUCT. A psychologist shall in no circumstances engage in sexual acts with clients, students who are under direct evaluative control of the psychologist, or with individuals who are currently participating in research conducted by or under the direction of the psychologist. Specifically with regard to the clients, such unprofessional conduct includes but is not limited to:

008.01 Engaging in sexual relationships with a client, regardless of the clients consent.

008.02 Soliciting a sexual relationship with a client.

008.03 Committing an act with a client punishable as a sexual or sexual related crime.

008.04 Engaging in any sexual act with a client or with a person who has been a client. Nothing in these regulations shall be construed to allow for a pre-arranged waiting period.

008.05 Engaging in sexual harassment of a client. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unnecessary in the professional relationship with a client.

009 FEES FOR SERVICES. A psychologist shall solicit or obtain fees for professional service in an appropriate manner consistent with the laws of the State of Nebraska. Unprofessional conduct includes but is not limited to:

009.01 Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the psychologist.

009.02 Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured.

009.03 Division of fees, or agreeing to split or divide the fees received for professional services with any person for bringing or referring a patient.

009.04 Ordering or utilizing tests, treatment, or use of treatment facilities not warranted by the condition of the patient.

009.05 Falsely or fraudulently claiming to have performed a professional service, charging for a service, or representing a service as the psychologist's own when he or she has not rendered due service or substantially assumed responsibility for the service.

010 ASSESSMENT AND TREATMENT TECHNIQUES. A psychologist shall make reasonable efforts to preclude misuse in the development, publication and utilization of psychological assessment techniques for use with clients. Unprofessional conduct includes but is not limited to:

010.01 Failure, in reporting assessment results, to indicate any serious concerns or special circumstances that exist regarding validity or reliability because of the circumstances of the assessment or the inappropriateness of the norms for the person tested.

010.02 Failure to make reasonable efforts to avoid and prevent the misuse of obsolete psychological tests and instruments.

010.03 Offering scoring and interpretation services for which the validity of the programs and procedures used in arriving at interpretations cannot be supported by adequate evidence.

010.04 Encouraging or promoting the use of psychological assessment techniques by inadequately trained or otherwise unqualified persons through teaching, sponsorship, or supervision.

010.05 In presenting psychological information, failure to make reasonable efforts to present such information objectively, fully, and accurately.

011 RESEARCH WITH HUMAN PARTICIPANTS. A psychologist shall respect the dignity and welfare of human research participants, and shall comply with these regulations governing such psychological research. Unprofessional conduct includes but is not limited to:

011.01 Except in minimal risk research unless care and treatment is provided in such research, failure to establish an agreement with research participants, prior to their participation, that clarifies the obligations and responsibilities of the psychologist and of the participant. Except where the nature of the research precludes full disclosure, the failure to inform participants of all aspects of the research that might reasonably be expected to influence willingness to participate, or the failure to explain all aspects of the research about which a participant inquires, also constitute unprofessional conduct; where the nature of the research precludes full prior disclosure, or where the research is with children or with participants who have impairments, the failure to take additional safeguards to protect the welfare and dignity of the research participants constitutes unprofessional conduct.

011.02 Where methodological requirements of a study make the use of concealment or deception necessary, unprofessional conduct includes failure of the investigator to:

- A) Determine before conducting the study whether the use of the techniques is justified by the study's prospective scientific, educational or applied value;
- B) Determine before conducting the study whether alternative procedures are available that do not use concealment or deception; or
- C) Provide the participants with an explanation as soon as possible.

011.03 Failure to grant a participant the right to decline to participate in or to withdraw from the research any time.

011.04 Failure to protect and or inform the participant of undue physical and mental discomfort, harm, and danger that may arise from research procedures; failure to inform participants of risks of such consequences; use of research procedures likely to cause serious or lasting harm to a participant unless the research has a potential benefit and fully informed and voluntary consent is obtained from the participant.

011.05 Except where scientific or humane values justify delaying or withholding information, the failure to provide participants, after data is collected, with information about the nature of the study or the failure to make reasonable efforts to remove any misconceptions that may have arisen constitute unprofessional conduct. Where scientific or humane values justify delaying or withholding this information, unprofessional conduct includes failure by the investigator to monitor the research and to ensure that there are no undue damaging consequences for participants.

011.06 Failure to make reasonable efforts to detect and remove or correct undesirable consequences for the individual participants, including long term effects.

011.07 Failure to make reasonable efforts to minimize the possibility that his or her research findings will be misleading.

011.08 Failure to make reasonable efforts to prevent distortion, misuse, or suppression of psychological findings by an institution or agency of which he or she is an employee.

011.09 Solicitation of research participants, when clinical services or other professional services are offered as an inducement for participation, without making clear the nature of the services as well as the costs and other obligations to be accepted by participants.

These Rules and Regulations recodify 172 NAC 36.6, Regulations Defining Unprofessional Conduct by a Psychologist.

Approved by Attorney General:
Approved by the Governor:
Filed by the Secretary of State:
EFFECTIVE DATE:

August 24, 1992
October 30, 1992
November 2, 1992
NOVEMBER 7, 1992

TITLE 172, NEBRASKA DEPARTMENT OF HEALTH PROFESSIONAL
AND OCCUPATIONAL LICENSES REGULATIONS

CHAPTER 157

**CODE OF PROFESSIONAL CONDUCT
FOR THE PRACTICE OF PSYCHOLOGY**



Department of Health
Professional and Occupational Licensure Division
Nebraska State Office Building, P.O. Box 94986
Lincoln, Nebraska 68509-4986
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Recodified Date: August 10, 1992

Printed 09/96

- TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH PROFESSIONAL AND OCCUPATIONAL LICENSES REGULATIONS
- CHAPTER 157 - CODE OF PROFESSIONAL CONDUCT FOR THE PRACTICE OF PSYCHOLOGY

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
Adoption	71-147, 71-148	001

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- TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH PROFESSIONAL AND OCCUPATIONAL LICENSES REGULATIONS
- CHAPTER 157 - CODE OF PROFESSIONAL CONDUCT FOR THE PRACTICE OF PSYCHOLOGY

001 ADOPTION. The Board hereby adopts the Ethical Standards of Psychologists of the American Psychological Association as the Code of Professional Conduct for the practice of Psychology in Nebraska. Copies of the Ethical Standards of Psychologists are available from the Board or from the American Psychological Association, Inc., 1200 Seventeenth Street, N.W. Washington, D.C. 20036.

These Rules and Regulations recodify 172 NAC 156.5, Code of Professional Conduct for the Practice of Psychology.

Filed with the Secretary of State: August 10, 1992

Effective Date
10/30/04

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 158

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 158

FEEES FOR PSYCHOLOGY LICENSES

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NEBRASKA HEALTH AND HUMAN SERVICES
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172 NAC 158

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 158 FEES FOR PSYCHOLOGY LICENSES

158-001 SCHEDULE OF FEES: The following fees have been set by the Department:

158-001.01 Initial License Fee:

1. By an applicant for a license to practice psychology the fee of \$50 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.
2. By an applicant for a license to practice psychology based on 20 years of practice, the fee of \$50 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.
3. By an applicant for a license to practice psychology based on reciprocity, the fee of \$50 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.
4. By an applicant for a provisional license to practice psychology, the fee of \$25.
5. By an applicant who wishes to practice psychology for 30 days, the fee of \$25.

158-001.02 Pro-rated Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date a fee of \$25, the Licensee Assistance Program fee of \$1; pro-ration does not apply to a provisional license, temporary license or 30 day license.

158-001.03 Temporary License Fee: By an applicant for a temporary license to practice as a psychologist, the fee of \$25.

158-001.04 Supervisory Registration Fee: By an applicant for a psychological assistant or psychologist associate registration, the fee of \$25.

158-001.05 License Renewal Fee:

1. By an applicant for renewal of a license to practice psychology on a biennial basis of a license, the fee of \$50 and the Licensee Assistance Program fee of \$2.
2. By an applicant for renewal of a special license to practice psychology on a biennial basis of a license, the fee of \$50 and the Licensee Assistance Program fee of \$2.

158-001.06 Inactive License Status Fee: By an applicant to have her/his license placed on inactive status, the fee of \$25.

158-001.07 Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of her/his license, the fee of \$25 as a late fee in addition to the renewal fee.

Effective Date
10/30/04

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 158

158-001.08 Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:

1. The basis on which a license was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the license; and
4. The current status of the license.

158-001.09 Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.

158-001.10 Duplicate License Fee: For a duplicate of the original license document or reissued license or certificate, the fee of \$10.

158-001.11 Administrative Fee: For a denied license or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the licensing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

158-001.12 Reinstatement Late Fee: For reinstatement of a license for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee; or
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

158-001.13 Reinstatement Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

These regulations amend 172 NAC 158, Fees for Psychology Licenses which were filed with the Secretary of State on October 30, 2002.

Approved by the Attorney General: September 27, 2004
Approved by the Governor: October 25, 2004
Filed with Secretary of State: October 25, 2004
Effective Date: October 30, 2004

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 162 LICENSURE OF RESPIRATORY CARE

162-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Respiratory Care under Neb. Rev. Stat. §§ 38-3201 to 38-3216 and the Uniform Credentialing Act (UCA).

162-002 DEFINITIONS

Act means Neb.Rev.Stat. §§ 38-3201 to 38-3216, known as the Respiratory Care Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved training program means a respiratory therapy education program which is accredited by the Commission on Accreditation for Respiratory Care.

Attest or Attestation means that the individual declares that all statements on the application are true and complete.

Board means the Board of Respiratory Care Practice.

Complete application means an application that contains all the information requested on the application with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing education means the offering of instruction or information to license holders for the purpose of maintaining skills necessary to the safe and competent practice of respiratory care. Continuing education may be offered under such names as "scientific school", "clinic", "forum", "lecture", or "educational seminar".

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced

7. because of alcohol or substance use; or
Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensure examination means the National Board for Respiratory Care Certified Respiratory Therapist (CRT) Examination or the Registered Respiratory Therapist (RRT) Examination approved by the Department on the recommendation of the Board.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 162.

Official means issued by and under the original seal of the issuing agency.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Provider means an individual or sponsoring organization that presents continuing education programs to license holders.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. §38-121.

Respiratory Care means the health specialty responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. Respiratory care will not be limited to a hospital setting and will include the therapeutic and diagnostic use of medical gases, administering apparatus, humidification and aerosols, ventilatory assistance and ventilatory control, postural drainage, chest physiotherapy and breathing exercises, respiratory rehabilitation, cardiopulmonary resuscitation, and maintenance of nasal or oral endotracheal tubes. It will also include the administration of aerosol and inhalant medications to the cardiorespiratory system and specific testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research. Such techniques will include, but

not be limited to, measurement of ventilatory volumes, pressures, and flows, measurement of physiologic partial pressures, pulmonary function testing, and hemodynamic and other related physiological monitoring of the cardiopulmonary system.

Respiratory care practitioner means:

1. Any person employed in the practice of respiratory care who has the knowledge and skill necessary to administer respiratory care to patients of all ages with varied cardiopulmonary diseases and to patients in need of critical care and who is capable of serving as a resource to the physician and other health professionals in relation to the technical aspects of respiratory care including effective and safe methods for administering respiratory care; and
2. A person capable of supervising, directing, or teaching less skilled personnel in the provision of respiratory care services.

Scaled score means a qualitative interpretive score which is a function of performance.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

162-003 INITIAL CREDENTIAL

162-003.01 Qualifications:

162-003.01A To receive a credential to practice respiratory care, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: Be a citizen of the United States, an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States.
3. Education: Have completed an approved training program; and
4. Examination: Have passed the licensure examination with a minimum score of 75 on a scaled score ranging from 1 to 99.

162-003.01B Other Proof of Competency:

1. For applicants who have met requirements as listed in 172 NAC 162-003.01A, who passed the examination more than three years prior to the time of application, and who are not practicing at the time of application, the applicant must within the three years immediately preceding the application, present proof of at least 60 hours of acceptable continuing education pursuant to 172 NAC 162-006.01A through 162-006.01D with a minimum of 15 hours in each of the following categories:
 - a. Pharmacology;
 - b. Mechanical ventilation;
 - c. Non-invasive ventilation support; and

- d. Practice of respiratory care.
2. For applicants who have an active license in another jurisdiction, but are not practicing at the time of application, the applicant must meet the requirements listed in 172 NAC 162-003.01A, and provide proof of a minimum of 20 hours of continuing education pursuant to 172 NAC 162-006.01A through 162-006.01D within the three years immediately preceding the application.

162-003.01C An applicant who, on or before July 17, 1986, passed the Certified Respiratory Therapy Technician or Registered Respiratory Therapist examination administered by the National Board for Respiratory Care or the appropriate accrediting agency acceptable to the Board and meets the requirements as listed in 172 NAC 162-003.01A items 1 and 2 will be issued a license to perform respiratory care.

162-003.02 Application: To apply for a credential to practice respiratory care, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - (9) Citizenship: The applicant must state that s/he is one of the following:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a

- credential holder in the United States;
- b. Practice in Nebraska Before Application: The applicant must state:
 - (1) That s/he has not practiced respiratory care in Nebraska before submitting the application; or
 - (2) If s/he has practiced respiratory care in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;
 - c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 162-008 or if an act(s) was committed, provide an explanation of all such acts; and-
 - (5) For the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114, s/he is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of state(s), credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;

- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
 - (1) A citizen;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
- d. Evidence of citizenship, lawful permanent residence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#")

- with visa status; or
- (14) A Form I-94 (Arrival-Departure Record) with visa status;
- e. Documentation of education, including:
- (1) Name and date of diploma/degree awarded;
 - (2) Name of school, college, university that awarded the diploma/degree; and
 - (3) Official transcript showing completion of an approved training program.
- f. Documentation of examination, including:
- (1) Name of examination;
 - (2) Date of examination; and
 - (3) Official documentation of passing the licensure examination and the score achieved on the examination;
- g. Documentation of Licensure in another Jurisdiction, including
- (a) Certification from the other jurisdiction (s) verifying licensure, including:
 - (b) Date of initial licensure;
 - (c) The name of the examination on which licensure was based;
 - (d) The score attained on the examination;
 - (e) Date of the examination;
 - (f) Name of accredited program from which the applicant graduated;
 - (g) The nature of disciplinary actions, if any, taken against the applicant's credential.
 - (2) The applicant must request that the certification from another jurisdiction be sent directly to the Department from the appropriate State Board office; and
 - (3) The applicant must:
 - (a) Attest whether s/he is practicing at the time of application; and
 - (b) Provide the dates and locations of practice; and
- h. Documentation of continuing competency if s/he meets the conditions listed in 172 NAC 162-003.01B item 1: Submit certificates of attendance verifying the 60 hours of continuing education.
- i. Documentation of continuing competency if licensed in another jurisdiction but not practicing: Submit certificates of attendance verifying the 20 hours of continuing education pursuant to 172 NAC 162-003.01B item 2.
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

162-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

162-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

162-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 162-008.01, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

162-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

162-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty pursuant to 172 NAC 162-011 or such other action as provided in the statutes and regulations governing the credential.

162-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

162-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

162-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

162-004 EXAMINATION ELIGIBILITY: An applicant is eligible to take the licensure examination if s/he meets the educational requirements pursuant to 172 NAC 162-003.01A item 3.

162-005 EXEMPTION FROM LICENSURE: A registered polysomnographic technologist may perform oxygen therapy or the initiation of noninvasive positive pressure ventilation relating to the study of sleep disorders, without obtaining a respiratory care license. These procedures may only be performed or initiated under the supervision of a licensed physician at a facility accredited by the American Academy of Sleep Medicine. A registered polysomnographic technologist means a person who is registered by the Board of Registered Polysomnographic Technologists, certified by the National Commission of Certifying Agencies.

162-006 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active Nebraska credential must, on or before the date of expiration of the credential, comply with the

continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 162-007.03 and 172 NAC 162-007.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

162-006.01 Continuing Competency Requirements: On or before June 1, of each even numbered year, each respiratory care practitioner who is holding an active credential must:

1. Complete 20 hours of acceptable continuing education as specified in 172 NAC 162-006.01A during the preceding 24 month period to renew a license; and
2. Be responsible for maintaining until the next renewal period:
 - a. Documentation of attendance at, or participation in, continuing education programs/activities as follows:
 - (1) American Association of Respiratory Care Continuing Education Summary; or
 - (2) Signed certificate; and
 - (3) Course brochure, course outline, or course content.
 - b. Documentation of presenting a continuing education program if the licensee is presenting a program. Documentation must include the following:
 - (1) Course outline;
 - (2) Brochure of course; and
 - (3) Statement of instructor's qualification to teach the course, unless the qualifications are included in the brochure.

162-006.01A Acceptable Programs/Activities: The Board does not pre-approve continuing education programs but will accept for renewal or reinstatement of a license, the continuing education program/activities related to the practice of respiratory care therapy or clinical application as specified in 172 NAC 16-006,01B and that are open to all licensees. The continuing education program/activity may focus on:

1. Research;
2. Treatment;
3. Documentation;
4. Management; or
5. Education

162-006.01B The Board will accept as continuing education for renewal of a license or reinstatement of a license the following learning experiences to include:

1. Programs at State and National association meetings which relate to the theory or clinical application of theory pertaining to the practice of respiratory care;
2. Formal education courses/presentations in which the:

- a. Courses or presentations are formally organized and planned instructional experiences;
 - b. Courses have a date, location, course title, number of contact hours, signed certificate of attendance, and are open to all licensees;
 - c. The Objectives relate to the theory or clinical application of theory pertaining to the practice of respiratory care; and
 - d. Instructor has specialized experience or training to meet the objectives of the course.
3. University or college sponsored courses relating to the theory or clinical application of theory pertaining to the practice of respiratory care. A licensee must provide documentation of successfully completing the course and include an official transcript, and a program outline and/or objectives;
 4. Home study where the content of the home study activity relates to the theory or clinical application of theory pertaining to the practice of respiratory care whether the subject is research, treatment, documentation, education, or management, for example, videotapes, internet courses, and/or correspondence courses). The program must have a testing mechanism scored by the named study provider. A licensee's documentation must include a certificate of completion, and a program outline and/or objectives;
 5. Management courses which relate to the theory or clinical application of theory pertaining to the practice of respiratory care. A respiratory care practitioner may complete a maximum of four hours of continuing education utilizing management courses each 24 month renewal period. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives;
 6. Nationally recognized specialty certification examinations. A licensee will earn contact hours for successful completion of nationally recognized specialty certification examinations related to an area of specialty practice in the field of respiratory care each 24 month renewal period. A licensee's documentation must include a copy of the certification that shows the date of the examination. Continuing education hours will be awarded as follows:
 - a. Certified Pulmonary Function Technologist (CPFT), ten hours of continuing education;
 - b. Registered Polysomnographic Technologist (RPSGT), ten hours of continuing education;
 - c. Neonatal Pediatric Specialist (NPS), ten hours of continuing education;
 - d. Registered Pulmonary Function Technologist (RPFT), ten hours of continuing education; and
 - e. Registered Respiratory Therapist (written and clinical

simulation examinations), 15 hours of continuing education;

7. Basic cardiac life support or advanced cardiac life support for adults and pediatric or neonatal courses.
- a. Maximum of one hour credit for the Basic Cardiac Life Support course during each 24 month renewal period;
 - b. Maximum of 12 hours credit for initial ACLS certification course or six hours credit for re-certification during each 24-month renewal period;
 - c. Maximum of eight hours credit for initial Neonatal Advanced Life Support certification course or four hours credit for recertification during each 24 month renewal period;
 - d. Maximum of 12 hours credit for Pediatric Advanced Life Support certification course or six hours credit for during each 24 month renewal period;
- recertification
8. Inservices that meet the requirements for formal education as outlined in 172 NAC 162-006.01B item 2 that cover:
- a. Therapeutic respiratory care procedures; or
 - b. Respiratory care equipment.

162-006.01C One hour credit will be awarded for each hour of attendance. Credit will not be awarded for breaks or meals.

162-006.01D One hour credit will be awarded for each hour of scientific presentation by a licensee acting as an essayist or lecturer to licensed respiratory care practitioners if the program relates to the theory or clinical application of theory pertaining to respiratory care. A licensee may receive continuing education credit for only the initial presentation during a renewal period, with a maximum of four hours of continuing education for presentations in a 24 month renewal period.

Presenters may not receive any more hours of credit for a continuing education activity than an attendee can receive as outlined in 172 NAC 162-006.01B.

162-006.01E Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs that do not relate to the theory or clinical application of theory pertaining to the practice of respiratory care including but not limited to:

1. Business communications and operations;
2. Medical terminology and language courses;
3. Courses which deal with personal self-improvement, financial gain, or career options;
4. Courses designed for lay persons;
5. Teaching unlicensed or uncertified persons, conducting research, or publications, or any preparation for same;
6. Respiratory care on-the-job training;

7. Respiratory care orientation programs or staff meetings, including orientation to new policies, non-therapeutic procedures, equipment, forms, responsibilities, services, etc;
8. Presentation made by students; or
9. Participation in or attendance at case conferences, grand rounds, or informal presentations.

162-007 RENEWAL: An individual who wants to renew his/her respiratory care credential must request renewal as specified in 172 NAC 162-007.02. All respiratory care credentials issued by the Department will expire on June 1 of each even-numbered year.

162-007.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder by regular mail at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

162-007.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#) or
 - (c) Form I-94 (Arrival-Departure Record) number, Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa

- for entry, is related to employment as a credential holder in the United States;
- c. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - d. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements as specified in 172 NAC 162-006 or has requested a waiver if s/he meets the requirements of 172 NAC 162-007.03 and/or 172 NAC 162-007.04;
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 162-008.01, or if any act(s) was committed, provide an explanation of such acts; and
 - (4) Is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Alien or Non-Immigrant: Evidence of lawful permanent residence, and/or immigration status may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
 - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time

period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:

- (1) A list of any misdemeanor or felony convictions;
- (2) A copy of the court record, which includes charges and disposition;
- (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (6) Any other information as requested by the Board/Department;

3. The renewal fee according to 172 NAC 2.

162-007.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 162-002 is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

162.007.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

162-007.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include:

1. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing competency requirements during the 24 months preceding the license renewal date, s/he must

- submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to obtain continuing competency requirements during that period; and
2. Other circumstances beyond the licensee's control prevented completion of the continuing competency requirements.

162-007.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

162-007.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

162-007.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

162-007.05C Acceptable documentation that the credential holder has met the continuing competency requirements include:

1. Course outline;
2. Brochure of course; and
3. Statement of instructor's qualification to teach the course, unless the qualifications are included in the brochure.

162-007.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

162-007.05E The Department will notify the credential holder upon satisfactory completion of the audit.

162-007.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

162-007.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

162-007.06 Department Review: The Department will act within 150 days upon all

completed applications for renewal.

162-007.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

162-007.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

162-007.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

162-007.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

162-007.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

162-007.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice respiratory care terminates.

162-007.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 162-011 or such other action as provided in the statutes and regulations governing the credential.

162-007.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of respiratory care after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 162-010.

162-007.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

162-007.09A Request for Inactive Status: When the Department has received

notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

162-007.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of respiratory care, but may represent him/herself as having an inactive credential.

162-007.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 162-010.

162-008 DISCIPLINARY ACTIONS

162-008.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently;
 - b. Beyond its authorized scope;
 - c. With gross incompetence or gross negligence; or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended,

revoked, or disciplined in any manner similar to 172 NAC 162-008.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;

12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 162-008.02; or
24. Violation of the Automated Medication Systems Act.

162-008.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
 - d. By a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;

5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency;
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care; and
15. The following acts which include but are not limited to:
 - a. Competence:
 - (1) A respiratory care practitioner must not provide services for which s/he is not trained or experienced;
 - (2) Encouraging or promoting respiratory care by untrained or unqualified persons; and
 - (3) Committing any act which endangers patient safety or welfare.
 - b. Confidentiality: A respiratory care practitioner must hold in confidence information obtained from a patient, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law.
 - c. Professional Relationships: A respiratory care practitioner must safeguard the welfare of patients and maintain appropriate professional relationships with patients. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - (1) Improper use of another person for one's own advantage;
 - (2) Failure to decline to carry out respiratory care services that have been requested when the services are known to be contraindicated or unjustified;

- (3) Failure to decline to carry out procedures that have been requested when such services are known to be outside of the respiratory care practitioner's scope of practice;
 - (4) Verbally or physically abusing patients;
 - (5) Falsification or unauthorized destruction of patient records;
 - (6) Attempting to provide diagnostic or treatment information to patient(s) that is beyond the respiratory care practitioner's level of training and expertise;
 - (7) Delegating to other personnel those patient related services when the clinical skills and expertise of a respiratory care practitioner is required.
- d. Sexual Harassment: A respiratory care practitioner must not under any circumstances engage in sexual harassment of patients or co-workers.
- (1) Sexual Harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:
 - (a) The provision or denial of respiratory care to a patient;
 - (b) The provision or denial of employment or employment advances to a co-worker;
 - (c) For the purpose or effect of creating an intimidating, hostile, or offensive environment for the patient or unreasonably interfering with a patient's ability to recover; or
 - (d) For the purpose or effect of creating an intimidating, hostile, or offensive working environment or unreasonably interfering with the co-worker's ability to perform his/her work;
- e. Obtaining any fee for professional services by fraud, deceit, or misrepresentation;
- f. Violating an assurance of compliance entered into under Neb. Rev. Stat. §38-1,108;
- g. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
- h. Failure to safeguard the patient's dignity and right to privacy;
- i. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional; and
- j. Practicing respiratory care in this state without a current Nebraska license; or
- k. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents.

162-008.03 Temporary Suspension or Limitation

162-008.03A The Department may temporarily suspend or temporarily limit any

credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 162-008.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

162-008.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

162-008.03C A temporary suspension or temporary limitation of a credential under 172 NAC 162-008.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

162-008.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

162-008.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

162-008.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 162-008.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a

- complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

162-009 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

162-009.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

162-009.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

162-009.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

162-009.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

162-009.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

162-009.06 Reinstatement following voluntary surrender is set out in 172 NAC 162-010.

162-010 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

162-010.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant, in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, a post office address; and city, state, and zip code or country information);
 - (3) The applicant's
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
 - c. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful permanent residence and/or immigration status which may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
 - d. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
 - e. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 162-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);

- (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 162-008.01 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) Is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 41-08 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request; and
2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

162-010.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

162-010.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

162-010.01C The Department will act within 150 days on all completed applications.

162-010.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

162-010.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 162-010.01.

162-010.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary

Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant must attest that all information in the application is truthful and complete, and the applicant in his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - b. Must state that s/he is one of the following:
 - (1) A citizen of the United States;
 - (2) An alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (INA) and who is eligible for a credential under the Uniform Credentialing Act; or
 - (3) A non-immigrant whose visa for entry, or application for visa for entry, is related to employment as a credential holder in the United States;
 - c. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful permanent residence and/or immigration status which may include a copy of:
 - (1) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#") with visa status; or
 - (4) A Form I-94 (Arrival-Departure Record) with visa status;
 - d. May provide the following information about him/herself:

- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- e. Must indicate that s/he:
- (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 162-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 162-008.01 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) Is a citizen of the United States or a qualified alien under the federal Immigration and Nationality Act, for the purpose of complying with Neb. Rev. Stat. §§ 4-108 to 4-114. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her USCIS documentation upon request; and

2. Fee: The renewal fee.

162-010.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

162-010.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

162-010.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 162-010.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 162-011, in which case a separate notice of opportunity for hearing will be sent to the applicant.

162-010.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

162-010.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

162-010.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modifications of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.

- b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

162-010.0G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

162-008.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

162-008.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

162-011 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business.

Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

162-011.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

162-011.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.

EFFECTIVE
AUGUST 14, 2011

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 162

2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

162-11.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

162-012 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

These amended rules and regulations replace 172 NAC 162 Regulations Governing the Practice Respiratory Care, effective January 15, 2005.

Approved by Attorney General:	March 3, 2011
Approved by Governor:	August 9, 2011
Filed with Secretary of State:	August 9, 2011
Effective Date:	August 14, 2011

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
<http://www.hhss.ne.gov/crl/profindex1.htm>

Nebraska Department of Health and Human Services
Department of Public Health
Licensure Unit
PO Box 94986
Lincoln NE 68509-4986

Effective Date
August 25, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 168

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 168 CERTIFICATION OF A REGISTERED ENVIRONMENTAL
HEALTH SPECIALIST

168-001 SCOPE AND AUTHORITY. These regulations govern the credentialing of a registered environmental health specialist under Neb. Rev. Stat. §§ 38-1301 to 38-1315 and the Uniform Credentialing Act (UCA).

168-002 DEFINITIONS.

Accredited College or University means a post-secondary school accredited by a regional accrediting institution.

Act means Neb. Rev. Stat. §§ 38-1301 to 38-1315 known as the Environmental Health Specialists Practice Act.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Board means the Board of Registered Environmental Health Specialists.

Certificate means an authorization issued by the Department that gives a person the right to use a protected title that only a person who has met specific requirements may use.

Certification Examination means the National Environmental Health Association's Registered Environmental Health Specialist/Registered Sanitarian Examination approved by the Board.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

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Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Continuing Education means the offering of instruction or information to certificate holders for the purpose of maintaining skills necessary for the safe and competent practice as a registered environmental health specialist. The continuing education may be offered under such names as "scientific school", "clinic", "forum", "lecture", "course of study" or "educational seminar.

Continuing Education Hour means 50 minutes.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

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Environmental Health Specialist means a person who by education and experience in the physical, biological, and sanitary sciences is qualified to carry out educational, investigational, and technical duties in the field of environmental sanitation.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 168.

Official means issued by and under the original seal of the educational institution.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Provider means an individual or sponsoring organization that presents continuing education programs to certificate holders.

Provisional Environmental Health Specialist means a person who is qualified by education but does not have at least two full years of experience in the field of environmental sanitation and is certified in accordance with the Environmental Health Specialists Practice Act.

Registered Environmental Health Specialist means a person who has the educational requirements and has had experience in the field of environmental sanitation pursuant to Neb. Rev. Stat. § 38-1308 and is certified in accordance with the Environmental Health Specialists Practice Act.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

Title or abbreviation means only a person who holds a valid current certificate for use in this state will have the right and privilege of using the title Registered Environmental Health Specialist and to use the abbreviation R.E.H.S. after his or her name.

168-003 INITIAL CREDENTIAL

168-003.01 Qualifications: To receive a credential to practice as a registered environmental health specialist, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good

- character;
2. Citizenship/ Lawful Presence Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
 3. Education:
 - a. Have a baccalaureate degree from an accredited college or university and satisfactorily completed at least 45 quarter hours or 30 semester hours of academic work in the basic natural sciences; or
 - b. Have a degree higher than a baccalaureate degree from an accredited college or university and satisfactorily completed at least 45 quarter hours or 30 semester hours of academic work in the basic natural sciences.
 4. Experience:
 - a. Employed full time as an environmental health specialist for a period of not less than two years with a baccalaureate degree; or
 - b. Employed full time as an environmental health specialist for a period of not less than one year with a degree higher than a baccalaureate degree; and
 5. Examination:
 - a. Passed the certifying examination with a score of 68% or above.

168-003.01A Passed Certification Examination But Is Not Practicing: An applicant who has met the education, and examination requirements pursuant to 172 NAC 168-003.01, items 3 and 5, who passed the examination more than three years prior to the time of application for certification, and who is not practicing at the time of application for certification must present proof to the Department, within the three years immediately preceding the application for certification, that s/he has completed 24 hours of continuing education, pursuant to section 172 NAC 168-005.

168-003.01B Credentialed in Another Jurisdiction But Is Not Practicing: An applicant who has met the standards for certification pursuant to 172 NAC 168-003.01 based on a credential in another jurisdiction and who is not practicing at the time of application for certification must present proof to the Department, within the three years immediately preceding the application for certification, that s/he has completed 24 hours of continuing education, pursuant to section 172 NAC 168-005.

168-003.01C Provisional Credential: To receive a credential to practice as a provisional environmental health specialist, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Have a baccalaureate degree or higher from an accredited college or university and satisfactorily completed at least 45 quarter hours or 30 semester hours of academic work in the basic natural sciences.

168-003.01C1 The provisional credential will be valid for one year and may be renewed for two additional one-year periods. Certification as a provisional environmental health specialist must not exceed a three-year period.

168-003.02 Application: To apply for a credential to practice as a registered environmental health specialist or as a provisional environmental health specialist the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced as a registered environmental health specialist or a provisional environmental health

- specialist in Nebraska before submitting the application; or
- (2) If s/he has practiced as a registered environmental health specialist or provisional environmental health specialist in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete;
- (3) S/he is of good character;
- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 168-007 or if an act(s) was committed, provide an explanation of all such acts; and
- (5) S/he is:
- (a) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
- (b) For purposes of Neb. Rev. Stat. §38-129:
- (i) A citizen of the United States;
- (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
- (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
- (1) Driver's license;
- (2) Birth certificate;
- (3) Marriage license that provides date of birth;
- (4) Transcript that provides date of birth;
- (5) U.S. State identification card;
- (6) Military identification; or
- (7) Other similar documentation;
- b. Evidence of good character, including:
- (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
- (2) Disciplinary Action: A list of any disciplinary actions taken

- against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);

- (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation that the applicant:
- (1) Requested that the examination rating/grades be sent directly to the Department from the appropriate examination service or State Board Office;
 - (2) Requested that an official college transcript be sent directly to the Department from the accredited college or university; and
 - (3) Submitted any other documentation as requested by the Board/Department.
- f. Documentation of licensure in another jurisdiction, including:
- (1) Certification from the other jurisdiction (s) verifying licensure, including:
 - (a) Date of initial licensure;
 - (b) The name of the examination on which licensure was based;
 - (c) The score received on the examination;
 - (d) Date of the examination;
 - (e) Name of accredited program that the applicant presented a transcript from;
 - (f) The nature of disciplinary actions, if any, taken against the applicant's credential; and
 - (2) The applicant must:
 - (a) State that s/hew has practiced within the three years preceding the application; and
 - (b) Provide the dates and location(s) of practice prior to the date of the application; and
- g. Documentation of licensure in another jurisdiction, including:
- (1) Certification from the other jurisdiction(s) verifying licensure, including:
 - (a) Date of initial licensure;
 - (b) The name of the examination on which licensure was based;
 - (c) The score received on the examination;
 - (d) Date of the examination;
 - (e) Name of accredited program that the applicant presented a transcript from;
 - (f) The nature of disciplinary actions, if any, taken against the applicant's credential.
- h. Documentation of continuing competency if not practicing: Submit

- certificates of attendance verifying the 24 hours of continuing education pursuant to 172 NAC 168-005; or
- i. Documentation of continuing competency if credentialed in another jurisdiction but not practicing: Submit certificates of attendance verifying the 24 hours of continuing education pursuant to 172 NAC 168-005; and
3. Fee: The applicant must submit the required fee along with the application and all required documentation.

168-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

168-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

168-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 168-007, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

168-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

168-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 168-010 or such other action as provided in the statutes and regulations governing the credential.

168-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

168-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

168-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the

translator. An individual may not translate his/her own documents.

168-004 EXAMINATION ELIGIBILITY:

168-004.01 To be eligible for admission to the National Environmental Health Association (NEHA) certifying examination, an applicant must have met the education and experience requirements pursuant to 172 NAC 168-003.01, items 3 and 4, and any additional requirements established by NEHA,

168-004.02 To schedule the certifying examination, the applicant must contact the National Environmental Health Association.

168-005 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless such requirements are waived in accordance with 172 NAC 168-006.03 and 168-006.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

168-005.01 General Requirements for Certification: On or before December 31 of each even-numbered year, each environmental health specialist who has an active certificate must:

1. Complete 24 hours of continuing education to renew a certificate during the preceding 24 month period.
2. Be responsible for maintaining until the next renewal period:
 - a. Documentation of attendance at, or participation in, continuing education programs/activities. Documentation must include:
 - (1) Signed certificate of attendance; and
 - (2) Program outline and/or objective; and/or
 - (3) Other requested documentation pursuant to 172 NAC 168-005.01C, item 3a.
 - b. If the certificate holder is presenting a program, documentation of the continuing education program. Documentation must include:
 - (1) Course outline;
 - (2) Course brochure; and
 - (3) Statement of instructor's qualifications to teach the course, unless the qualifications are included in the brochure.
3. When applicable, submit an application for waiver of the continuing education requirement pursuant to 172 NAC 168-005.03 and 168-005.04.

168-005.01A Acceptable Continuing Education: The board does not pre-approve continuing education programs in advance, but will accept as continuing education for renewal, continuing education programs specified in 172 NAC 168-005.01B. The Board retains final authority for acceptance of any educational program/activity submitted by the certificate holder to meet the continuing competency requirements. In order for continuing education programs/activities to be accepted for renewal or reinstatement of a certification, the continuing education programs/activities must

relate to environmental health and it may focus on research, documentation, management, or education and must be open to all certificate holders.

168-005.01B A continuing education activity, except formal self-study will be acceptable when:

1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the certificate holder;
2. The objectives of the continuing education activity relates to the practice of environmental health;
3. It has a date, location, course title, number of contact hours, signed certificate or record of attendance and is open to all certificate holders; and
4. The instructor has specialized experience or training to meet the course objectives;

168-005.01C Acceptable Programs/Activities: The following is a list of acceptable continuing education programs/ activities and the required documentation specified for each. One hour of continuing education credit will be awarded for each 50 minutes of attendance. Each program/activity must be at least 50 minutes in length. Credit will not be awarded for breaks or meals.

1. Programs at State and National association meetings (for example, a meeting of the Nebraska or other state environmental health associations and/or the National Environmental Health Association. Documentation must include:
 - a. Certificate of attendance; and
 - b. Program outline and/or objectives.
2. Workshops, seminars, and/or conferences, including monitored videotapes and in-service programs where the content of the continuing education program/activity relates to environmental health. Documentation must include:
 - a. Certificate or record of attendance; and
 - b. Program outline and/or objectives.
3. University or college sponsored courses where the content of the course relates to environmental health. A credential holder must provide documentation of successfully completing the course. One semester hour is equivalent to 15 contact hours. One quarter hour is equivalent to 3.75 contact hours. Documentation must include;
 - a. An official transcript; and
 - b. Program outline and/or objectives.
4. Formal self-study where the content of the self-study activity relates to environmental health whether the subject is research, documentation, education, or management, (for example,

- videotapes, internet courses, correspondence courses). Certificate holders may complete a maximum of 12 hours of continuing education by self-study each renewal period. The self-study program must have a testing mechanism. Documentation must include:
- a. A certificate of completion; and
 - b. Program outline and/or objectives.
5. Management courses that pertain to the practice of environmental health. An environmental health specialist may complete a maximum of six hours of continuing education utilizing management courses each renewal period. Documentation must include;
- a. A certificate of attendance; and
 - b. Program outline and/or objectives.
6. Professional development courses that pertain to the practice of environmental health. The course must include quality improvement and communication. An environmental health specialist may complete a maximum of four hours of continuing education utilizing professional development courses each 24 month renewal period. Documentation must include:
- a. A certificate of attendance; and
 - b. Program outline and/or objectives;
7. Nationally recognized specialty certifications or registration: A credential holder will earn 24 contact hours of continuing education each renewal period for successful completion of a nationally recognized specialty certification. These include Certified Food Safety Professional (CFSP), NEHA Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS), Registered Hazardous Substances Professional (RHSP), and Registered Hazardous Substances Specialist (RHSS). Documentation must include a copy of his/her current certification.
8. Scientific Presentation: A certificate holder acting as an essayist or a lecturer to certified environmental health specialists, will be awarded one hour of continuing education credit for each continuing education hour of scientific presentation at workshops, seminars, in-service training, conferences, or guest lectures which relate to environmental health. A certificate holder may receive continuing education credit for only the initial presentation during a renewal period, with a maximum of four hours of continuing education credit for presentations in a 24 month renewal period. Documentation must include:
- a. Program brochure that includes the certificate holder's name as presenter;
 - b. Continuing competency course outline and/or objectives; and
 - c. Statement of instructor's qualifications to teach the course unless the qualifications are included in the brochure.

168.005.01D Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the content does not relate to environmental health, including but not limited to:

1. Stress management;
2. Environmental health on-the-job training; and
3. Environmental health orientation programs, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.

168-006 RENEWAL: An individual who wants to renew his/her registered environmental health specialist credential must request renewal as specified in 172 NAC 168-006.02. All registered environmental health specialist credentials issued by the Department will expire on December 31 of each even numbered year. The provisional environmental health specialist credential will expire one year from the date of issuance but may be renewed for two one-year periods. The provisional credential may not exceed a three year period.

168-006.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

168-006.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
 - a. Must provide the following Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - b. May provide the following information about him/herself:

- (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 168-005 or has requested a waiver if s/he meets the requirements of 172 NAC 168-006.03 and/or 168-006.04; and
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 168-007.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a

felony or misdemeanor, since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:

- (1) A list of any misdemeanor or felony convictions;
- (2) A copy of the court record, which includes charges and disposition;
- (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (6) Any other information as requested by the Board/Department; and

3. The renewal fee according to 172 NAC 2.

168-006.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 168-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

168-006.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

168-006.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include proof that the credential holder was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during

the 24 months immediately preceding the certificate renewal date.

168-006.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

168-006.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

168-006.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

168-006.05C Acceptable documentation that the credential holder has met the continuing competency requirements include documentation as outlined in 172 NAC 168-005.01B. For purposes of these regulations proof of attendance or certificate of completion includes but is not limited to:

1. Copies of certificates of attendance or participation in a continuing education activity; and
2. Course outlines and/or objectives; or
3. Letters documenting attendance from providers; or
4. Copies of transcripts from educational institutions.

168-006.05D The Department will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

168-006.05E The Department will notify the credential holder upon satisfactory completion of the audit.

168-006.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

168-006.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

168-006.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

168-006.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

168-006.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

168-006.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

168-006.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

168-006.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

168-006.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as an environmental health specialist terminates.

168-006.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 168-010 or such other action as provided in the statutes and regulations governing the credential.

168-006.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice as an environmental health specialist after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 168-009.

168-006.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

168-006.09A Request for Inactive Status: When the Department has received

notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

168-006.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice as an environmental health specialist but may represent him/herself as having an inactive credential.

168-006.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 168-009.

168-007 DISCIPLINARY ACTIONS

168-007.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently;
 - b. Beyond its authorized scope;
 - c. With gross incompetence or gross negligence; or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;

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11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 168-007.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty; and/or
23. Unprofessional conduct as defined in 172 NAC 168-007.02.

168-007.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement;
2. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
3. Cheating on or attempting to subvert the credentialing examination;
4. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
5. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on

- stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
6. Knowingly disclosing confidential information except as otherwise permitted by law;
 7. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
 8. Failure to keep and maintain adequate records of treatment or service;
 9. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
 10. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
 11. Competence: An environmental health specialist must not provide services for which s/he is not trained or experienced.
 12. Confidentiality: Releasing confidential information without the prior written consent of a client, except in those unusual circumstances in which a failure to do so would result in clear danger to the public or an identifiable individual, or where otherwise required or allowed by law;
 13. Professional Relationships: Safeguarding the welfare of the public and maintaining professional relationships with clients. Commission of any of the following acts constitutes unprofessional conduct:
 - a. Exploiting a client for financial gain or sexual favors;
 - b. Performing or agreeing to perform environmental health services that have been requested when the services are known to be contraindicated or unjustified;
 - c. Performing or agreeing to perform procedures that are outside of the environmental health specialist's scope of practice;
 - d. Verbally or physically abusing clients;
 - e. Falsification or unauthorized destruction of client records;
 - f. Delegating to other personnel, who are not trained or qualified, those services for which the skills and expertise of a registered environmental health specialist are required;
 - g. Encouraging or promoting the practice of environmental health by untrained or unqualified persons;
 - h. Filing a false report or record in the practice of environmental health: This includes but is not limited to collection or billing of a fee or other similar activity to obtain payment;
 - i. Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from the services, devices, appliances, or products;
 14. Engaging in sexual misconduct. Specifically with regard to clients, the unprofessional conduct includes engaging in sexual harassment of clients. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
 - a. Providing or denying service to a client;
 - b. Creating an intimidating, hostile, or offensive environment for the client; and/or
 - c. Providing favorable reports or modifying reports for sexual favors;

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15. Failure to follow policies or procedures implemented in the practice to safeguard the public;
16. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a registered environmental health specialist;
17. Failure to report suspected cases of child abuse or vulnerable adult abuse pursuant to Neb. Rev. Stat. §§ 28-717 and 28-384; and/or
18. Failure of a certificate holder, who is the subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents.

168-007.03 Temporary Suspension or Limitation

168-007.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 168-007.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

168-007.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

168-007.03C A temporary suspension or temporary limitation of a credential under 172 NAC 168-007.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

168-007.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

168-007.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or

6. Revocation.

168-007.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 168-007.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

168-008 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide credential holder's signature and date.

168-008.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

168-008.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

168-008.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

168-008.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

168-008.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

168-008.06 Reinstatement following voluntary surrender is set out in 172 NAC 168-009.

168-009 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status,

voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.

2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

168-009.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter: The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - a. Social Security Number (SSN); or
 - b. Alien Registration Number (A#); or
 - c. Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and

- d. Must attest that s/he:
- (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 168-005 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 168-007 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

168-009.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

168-009.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

168-009.01C The Department will act within 150 days on all completed applications.

168-009.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

168-009.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 168-009.01.

168-009.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence and/or immigration status which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);

- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 168-005 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced; and
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 168-007 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee: The renewal fee.

168-009.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

168-009.03B The Department, with the recommendation of the Board, may:

- 1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
- 2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;

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3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

168-009.03C On the basis of the written application, materials submitted by the applicant and the information obtained under 172 NAC 168-009.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 168-010, in which case a separate notice of opportunity for hearing will be sent to the applicant.

168-009.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

168-009.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

168-009.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final

30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.

- a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

168-009.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

168-009.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

168-009.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;

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- b. Made upon unlawful procedure;
- c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
- d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

168-010 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

168-010.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Other government records that indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

168-010.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to

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- contest the assessment of an administrative penalty;
- d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

168-010.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

168-011 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

168-012 METHOD OF IDENTIFICATION: Every person credentialed as a registered environmental health specialist must be able to identify himself/herself to the consumer by either showing the certification card issued by the Department or a photographic identification issued by his/her employer. All signs, announcements, stationery, and advertisements of registered environmental health specialists shall identify the profession.

These amended rules and regulations replace Title 172 NAC 168 Regulations Governing the Practice of Environmental Health Specialists, effective October 30, 2004.

Approved by Attorney General:	July 23, 2012
Approved by Governor:	August 20, 2012
Filed with Secretary of State:	August 20, 2012
Effective Date:	August 25, 2012

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

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Licensure Unit
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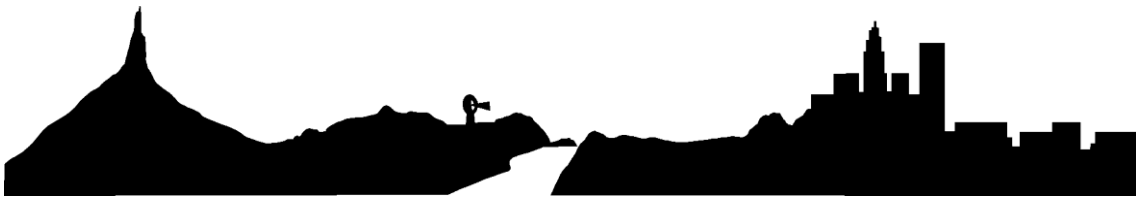
STATE OF NEBRASKA

TITLE 172 CHAPTER 180

Regulations Governing the Practice of

VETERINARY MEDICINE AND SURGERY

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



Department of Health and Human Services Regulation and Licensure
Credentialing Division
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Effective Date: January 15, 2005

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 180 PRACTICE OF VETERINARY MEDICINE AND SURGERY

180-001 AUTHORITY: These regulations apply to licensure of veterinarians and veterinary technicians as defined by Neb. Rev. Stat. §§71-1,152.01 to 71-1,166 and the Uniform Licensing Law.

180-002 DEFINITIONS

~~002.01~~ Accredited school or college of veterinary medicine and surgery means a school or college which conforms to the standards required for accreditation by the American Veterinary Medical Association (AVMA) and is approved by the Department, upon recommendation of the Board.

~~002.02~~ Act means Neb. Rev. Stat. §§71-1,152.01 to 71-1,166, known as the Nebraska Veterinary Practice Act.

~~002.03~~

~~002.04~~ Approved continuing education means courses, clinics, forums, lectures, training programs or seminars that pertain to veterinary medicine and surgery or veterinary technology, and are approved by the Board.

Approved continuing competency means activities that ensure the maintenance of knowledge and skills necessary to competently practice veterinary medicine and surgery; the utilization of new techniques based on scientific and clinical advances; and the promotion of research to assure expansive and comprehensive services to the public. The activities must meet the criteria for approval established by the Board to be recognized for licensure renewal.

~~002.05~~ Approved program means a program in veterinary technology for the education of technicians, accredited by the American Veterinary Medical Association (AVMA), as approved by the Board.

Approved program that determines educational equivalence means a program to determine educational equivalence in veterinary medicine and surgery which issues certificates based on specific standards indicating that the holder of such a certificate has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine. Such programs include the American Veterinary Medical Association Education Commission for Foreign Veterinary Graduates (AVMA ECFVG), the American Association of Veterinary State Boards Program for the Assessment of Veterinary Education Equivalence (AAVSB PAVE); or another entity that maintains the same standards for determining educational equivalence as the AVMA ECFVG or the AAVSB PAVE.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

002.06-Board means the Board of Veterinary Medicine and Surgery.

002.07-Completed application means an application with all of the information requested on the application filled in, the signature of the applicant verified, fees and all required documentation submitted.

002.09-Department means the Department of Health and Human Services Regulation and Licensure.

Direct supervision means that the supervisor is on the premises and is available to the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

002.10-Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. §81-3201, for performance of the duties set out in that statute.

Examination means the National Board Examination, the Clinical Competency Test, and the North American Veterinary Licensing Examination.

Hour means a period of 50 minutes of formal instruction, otherwise known as a "contact hour."

Immediate supervision means that the supervisor is on the premises and is in direct eyesight and hearing range of the animal and the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Inactive status means the voluntary termination of the right or privilege to practice veterinary medicine and surgery. The licensee retains the right or privilege to represent himself/herself as having an inactive license.

Indirect supervision means that the supervisor is not on the premises but is easily accessible and has given written or oral instructions for treatment of the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

002.13-Lapsed status means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice veterinary medicine and surgery.

Licensed veterinarian means a person who is validly and currently licensed to practice veterinary medicine and surgery in this state.

Licensed veterinary technician means a veterinary technician who is validly and currently licensed as a veterinary technician in this state. Only a licensed veterinary technician may advertise or offer his/her services in a manner calculated to lead others to believe that s/he is a veterinary technician.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 180.

~~002.14~~ Official transcript means issued by and under the original seal of the educational institution.

~~002.15~~ Provider means an institution or individual that presents continuing education programs to licensees and may request approval from the Department of those programs.

Surgery means the treatment, through revision, destruction, incision, closure or other structural alteration of animal tissue.

Supervisor means a licensed veterinarian or licensed veterinary technician as required by statute or rule or regulation for the particular delegated task being performed by a veterinary technician or unlicensed assistant.

Unlicensed assistant means an individual who is not a veterinarian or a veterinary technician who is working in veterinary medicine.

~~002.16~~ Verified means sworn to before a Notary Public.

Veterinarian means a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine or its equivalent.

180-003 REQUIREMENTS FOR ISSUANCE OF A LICENSE: Any person, except those listed in Neb. Rev. Stat. §71-1,155, who wishes to practice and/or represent himself/herself as a veterinarian must be licensed as a veterinarian. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

180-003.01 Licensure of a Veterinarian

180-003.01A Procedures for Licensure as a Veterinarian by Examination: An applicant for a license to practice veterinary medicine and surgery on the basis of an examination must:

1. Meet one of the following requirements regarding education:
 - a. Have graduated from an accredited school or college of veterinary medicine and surgery; or
 - b. Hold a certificate issued by an approved program that determines educational equivalence indicating that the applicant has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited school or college of veterinary medicine and surgery.
2. Meet the following requirements regarding examination:

- a. Pass the National Board Examination (NBE) with a converted score of at least 70 and the Clinical Competency Test (CCT) with a converted score of at least 70 within the last five years, which are administered by the National Board of Veterinary Medical Examiners (NBVME); or
 - b. Pass the North American Veterinary Licensing Examination (NAVLE) given by the NBVME with a converted score of at least 70 within the last five years;
3. Pass the Nebraska Jurisprudence Examination which relates to the statutes that govern veterinary medicine and surgery with an average score of at least 70;
 4. Have good moral character and have attained at least the age of 21 years; and
 5. Submit to the Department:
 - a. An application for a license to practice veterinary medicine and surgery which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format. Only applications which are complete will be considered;
 - (1) Personal information: legal name, date of birth, Social Security Number, place of birth, mailing address, telephone number (optional), and permanent address;
 - (2) Education: name and location of high school completed and date completed, name and location of pre-veterinary college and date completed, name and location of veterinary college and date of graduation; if your veterinary college is not accredited, indicate that you are having official documentation of your Educational Equivalence Certificate forwarded to this office;
 - (3) Indicate whether you are applying by examination or reciprocity.
 - (4) Indicate that you have contacted the Veterinary Information Verification Agency (VIVA) to forward your NBE and CCT or your NAVLE scores to Nebraska.
 - (5) All applicants must respond to the following questions by answering yes or no. If the answer is yes to any question, explain the circumstances and outcome.

- (a) Have you ever been convicted of a felony or misdemeanor?
- (b) Have you ever been denied a license or the right to take an examination?
- (c) Has your veterinary license in any state ever been suspended, revoked, limited, placed on probation or disciplined in any manner?
- (d) Have you ever voluntarily surrendered or limited in any way a license issued to you by a licensing or disciplinary authority?
- (e) Have you ever been requested to appear before any licensing agency?
- (f) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
- (g) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
- (h) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
- (i) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (j) During the past ten years, have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
- (k) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
- (l) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (m) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (n) Have you ever surrendered your state or federal controlled substances registration?
- (o) Have you ever had your state or federal controlled substances registration restricted in any way?
- (p) Have you ever been notified of any malpractice claim against you?
- (q) Has any action or proceeding of a civil nature ever been brought against you concerning care or treatment of an animal, regardless of whether or not such action or proceeding was ultimately withdrawn, dismissed, settled or resulted in a judgement?

- (6) Indicate whether or not you have ever been licensed as a veterinarian in another state, province or jurisdiction. List all states, provinces and jurisdictions where you have been or are currently licensed, and include license number and expiration date.
 - (7) Notarized statement from the applicant that s/he is of good moral character and that the statements on the application are true and complete.
- b. An official transcript from an accredited school or college of veterinary medicine and surgery showing graduation from the school or college, or official documentation of a certificate issued by an approved program that determines educational equivalence;
 - c. Official documentation of the scores obtained on the NBE and the CCT; or the NAVLE;
 - d. A completed Nebraska Jurisprudence Examination;
 - e. The required licensure fee; and
 - f. A copy of birth certificate, marriage license, driver's license or other valid verification of age.

180-003.01B The Department will act within 150 days upon all completed applications for licensure.

180-003.01C Procedures for Licensure As A Veterinarian By An Applicant Who Is Licensed As A Veterinarian In Another Jurisdiction:

180-003.01C1 May apply by examination if s/he has passed the NBE with a converted score of at least 70 and the CCT with a converted score of at least 70 within the last five years, or the NAVLE with a converted score of at least 70 within the last five years and must meet the requirements in 172 NAC 180-003.01A; or

180-003.01C2 Must apply by reciprocity if s/he has not passed the NBE with a converted score of at least 70 and the CCT with a converted score of at least 70 within the last five years, or the NAVLE with a converted score of at least 70 within the last five years and must meet the following requirements:

1. Meet one of the following requirements regarding education:
 - a. Have graduated from an accredited school or college of veterinary medicine and surgery; or
 - b. Hold a certificate issued by an approved program that determines educational equivalence indicating that the applicant has demonstrated knowledge and skill equivalent to

that possessed by a graduate of an accredited school or college of veterinary medicine and surgery.

2. Pass one of the following examinations administered by the NBVME:
 - a. The NBE with a converted score of at least 70; or
 - b. The NAVLE with a converted score of at least 70.
3. Pass the Nebraska Jurisprudence Examination which relates to the statutes that govern veterinary medicine and surgery with an average score of at least 70;
4. Be duly licensed in another state or territory of the United States or the District of Columbia which maintains standards regulating the profession equal to those maintained in this State;
5. Have been in the active and continuous practice of veterinary medicine and surgery in another state or territory of the United States or the District of Columbia for at least one year of the three years immediately preceding the date of application for Nebraska license; or, have been in an accepted residency or graduate training program for at least one year of the three years immediately preceding the date of application for Nebraska license;
6. Have good moral character and have attained at least the age of 21 years; and
7. Submit to the Department:
 - a. An application for a license to practice veterinary medicine and surgery which includes the following information. The application may be submitted on a form provided by the Department, or on an alternate format. Only applications which are complete will be considered.
 - (1) All information as listed in 172 NAC 180-003.01A item 5.a;
 - (2) Indicate the name and address of agency issuing initial license, date issued, initial license number and expiration date. Indicate the name of the written state examination you took and a statement of the topics covered by this examination;
 - (3) Indicate whether or not you have been in the active and continuous practice of veterinary medicine and surgery in another state or territory of the United States or the District of Columbia for at least one year of the three years immediately preceding the date of application for

Nebraska license; or, have been in an accepted residency or graduate training program for at least one year of the three years immediately preceding the date of application for Nebraska license. Give name of facility, address and dates of locations where you have been actively engaged in the practice of veterinary medicine and surgery or were in an accepted residency or graduate training program;

- (4) Indicate that you have requested certification of your initial veterinary medicine and surgery license sent to Nebraska;
- b. An official transcript from an accredited school or college of veterinary medicine and surgery showing graduation from the school or college or official documentation of a certificate issued by an approved program that determines educational equivalence;
- c. Official documentation of the scores obtained on the NBE or the NAVLE;
- d. A completed Nebraska Jurisprudence Examination;
- e. The required licensure fee;
- f. A copy of birth certificate, marriage license, driver's license or other valid verification of age; and
- g. The following documentation from the licensing agency of the jurisdiction where the applicant was initially licensed:
 - (1) A certification that the applicant is duly licensed, that his/her license was based on an examination, that his/her license has never been suspended, or revoked, or disciplined in any manner and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
 - (2) The nature of disciplinary actions, if any, taken against the applicant's license.
- h. Documentation that the applicant has been actively engaged in the practice of veterinary medicine and surgery in another state or territory of the United States or the District of Columbia for at least one of the three years immediately preceding the date of application for Nebraska license; or, has been in an accepted residency or graduate training program for at least one of the three years immediately preceding the date of the application for Nebraska license.

8. The Board reviews the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are comparable to those maintained in veterinary medicine and surgery in Nebraska and will recommend to the Department to issue or deny the license.

180-003.01D The Department will act within 150 days upon all completed applications for licensure.

180-003.01E When a license will expire within 180 days after its initial issuance date, the Department will collect one-fourth of the initial licensing fee, and the license will be valid until the next subsequent renewal date.

180-003.02 Licensure of a Veterinary Technician

180-003.02A All persons who are certified as approved animal technicians on the date of July 13, 2000 by the standards set under Neb. Rev. Stat. §§71-1,168 to 71-1,185 as such sections existed prior to such date will be licensed as veterinary technicians.

180-003.02B Procedures for licensure as a veterinary technician: An applicant for licensure as a veterinary technician must:

1. Have attained at least the age of 19;
2. Have good moral character; and
3. Meet the following requirements:
 - a. Have graduated from an AVMA accredited veterinary technician program and pass the Veterinary Technician National Examination (VTNE) with a score not less than the recommended passing score as determined by the examination service approved by the Board; or
 - b. Have at least five years or more full-time experience working with a veterinarian prior to July 13, 2000; be employed by a veterinarian on the date of July 13, 2000; and pass the VTNE no later than July 13, 2003, with a score not less than the recommended passing score as determined by the examination service approved by the Board.
2. Submit to the Department:
 - a. An application which includes the following information. The application may be on a form provided by the Department, or on an alternate format. Only applications which are complete will be considered;
 - (1) Personal information: legal name, date of birth, Social Security Number, place of birth, mailing address, telephone number (optional), and permanent address;

- (2) Education: name and location of high school completed and date completed, name and location of approved veterinary technician program, if applicable, and date completed;
- (3) All applicants must respond to the following questions by answering yes or no. If the answer is yes to any question, explain the circumstances and outcome.
 - (a) Have you ever been convicted of a felony or misdemeanor?
 - (b) Have you ever been denied a certificate/license or the right to take an examination?
 - (c) Has your certificate/license in any state ever been suspended, revoked, limited, placed on probation or disciplined in any manner?
 - (d) Have you ever voluntarily surrendered or limited in any way a certificate/license issued to you by a licensing or disciplinary authority?
 - (e) Have you ever been requested to appear before any licensing agency?
 - (f) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (g) Are you aware of any pending disciplinary actions against your certificate/license in any jurisdiction?
 - (h) Are you aware of any on-going investigations of a disciplinary complaint against your certificate/license in any jurisdiction?
 - (i) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (j) During the past ten years, have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (k) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (l) Has any action or proceeding of a civil nature ever been brought against you concerning care or treatment of an animal, regardless of whether or not such action or proceeding was ultimately withdrawn, dismissed, settled or resulted in a judgement?
- b. Notarized statement from the applicant that s/he is of good moral character and that the statements on the application are true and complete.

- c. If applying according to the requirements delineated in 172 NAC 180-003.02B item 1.a.:
 - (1) An official transcript from an accredited program in veterinary technology showing graduation from the program;
 - (2) Official documentation of score obtained on the VTNE.
- d. If applying according to the requirements delineated in 172 NAC 180-003.02B item 1.b.:
 - (1) Affidavit from veterinarian verifying employment of applicant by the veterinarian in profession of veterinary medicine on July 13, 2000 and dates applicant worked with the veterinarian;
 - (2) Verification that applicant has at least five years or more full-time experience working with a veterinarian prior to July 13, 2000;
 - (3) Official documentation of score obtained on the VTNE.
- e. Evidence that s/he has attained the age of 19; and
- f. The required licensure fee.

180-003.02C The Department will act within 150 days upon all completed applications for licensure.

180-003.02D When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, and the license will be valid until the next subsequent renewal date.

180-003.02E No person may practice veterinary technology in the state who is not a licensed veterinary technician. The Nebraska Veterinary Practice Act will not be construed to prohibit a person who is a regular student in a school of veterinary technology from performing duties or actions assigned by his/her instructors or from working under the direct supervision of a licensed veterinarian during a school vacation period.

180-004 STANDARDS OF SUPERVISION FOR DELEGATED HEALTH CARE TASKS

180-004.01 The following tasks may be performed only by a licensed veterinary technician under the direction, supervision and control of a veterinarian licensed to practice in Nebraska, provided the veterinarian makes a physical examination of the patient treated.

180-004.01A Immediate supervision:

- 1. Dental extraction not requiring sectioning of a tooth or the resectioning of bone;
- 2. Assist veterinarian in surgery by tissue handling and instrument handling.

180-004.01B Direct supervision:

1. Induction of anesthesia;
2. Euthanasia;
3. Blood or blood component collection, preparation and administration for blood transfusions;
4. Dental procedures limited to the following procedures only:
 - a. Removal of calculus, soft deposits, plaque, and stains;
 - b. Smoothing, filing, and polishing of teeth;
 - c. Flotation or dressing of equine teeth.

180-004.01C Indirect supervision:

1. Perform preliminary physical examination;
2. Obtain history regarding an animal patient;
3. Client education;
4. Administration and application of treatments, drugs, oxygen therapy, medications and immunological agents by parenteral and injectable routes (subcutaneous, intramuscular, intraperitoneal, and intravenous), except when in conflict with government regulations;
5. Initiation of parenteral fluid administration;
6. Intravenous catheterizations;
7. Radiography including settings, positioning, processing and safety procedures;
8. Electrocardiogram (EKG);
9. Collection of urine by expression, cystocentesis, or catheterization;
10. Collection and preparation of tissues, cellular, or microbiological samples by skin scraping, impressions, or other non-surgical methods, except when in conflict with government regulations;
11. Routine laboratory test procedures;
12. Supervision of the handling of biohazardous waste materials;
13. Application of bandages and wound management;
14. Patient vital sign monitoring.

180-004.02 The following tasks may be performed by unlicensed veterinary assistants under the direction, supervision and control of a veterinarian or veterinary technician licensed to practice in Nebraska, provided the veterinarian makes a physical examination of the patient treated.

180-004.02A Immediate Supervision:

1. Assist veterinarian in surgery by tissue handling and instrument handling.

180-004.02B Direct Supervision:

1. Assist with the following radiology procedures:
 - a. Patient positioning;

- b. Operation of x-ray machine after obtaining training in radiation safety as required by 180 NAC 6-010.03 item 4.
2. Administer crystalloid fluid therapy through an established IV catheter;
3. Collection of blood specimens;
4. Patient vital sign monitoring.

180-004.02C Indirect supervision:

1. Collection of voided urine specimens;
2. Collection of fecal specimens;
3. Perform automated blood tests or commercial ELISA tests;
4. Obtain history regarding an animal patient;
5. Perform preliminary physical examination;
6. Client education;
7. Administration and application of treatment and drugs, medications and immunological agents by topical, oral, rectal, intramuscular and subcutaneous injectable routes, except when in conflict with government regulations.

180-004.03 Under conditions of emergency, a licensed veterinary technician or unlicensed veterinary assistant may render the following life-saving aid and treatment:

1. Application of tourniquets and/or pressure bandages to control hemorrhage;
2. Administration of pharmacological agents and parenteral fluids must only be performed after direct communication with a licensed veterinarian and the veterinarian is either present or enroute to the location of the distressed animal;
3. Resuscitative procedures;
4. Application of temporary splints or bandages to prevent further injury to bones or soft tissues;
5. Application of bandages, appropriate wound dressings and external supportive treatment in severe wound and burn cases;
6. External supportive treatment in heat prostration cases.

180-004.04 Licensed veterinary technicians or unlicensed veterinary assistants are not permitted to do any of the following:

1. Make a diagnosis or prognosis;
2. Prescribe any treatment, drugs, medications or appliances;
3. Perform surgery;
4. Administer Rabies vaccine.

180-005 EXAMINATION ELIGIBILITY

180-005.01 To be eligible to take the North American Veterinary Licensing Examination for Nebraska, an applicant must submit to the Department:

1. A written request to the Department requesting authorization to sit for the NAVLE stating date of specific testing window requested;

2. A completed application for licensure pursuant to 172 NAC 180-003.01A item 5.a;
3. Submit one of the following to the Department if enrolled in or a graduate of an accredited school or college of veterinary medicine and surgery:
 - a. Official verification from an accredited school or college of veterinary medicine and surgery certifying that s/he is a student in good standing and will be within eight months of his/her expected graduation date from any date within the next testing window for the NAVLE; or
 - b. A certified final transcript from an accredited school or college of veterinary medicine and surgery showing graduation from the school or college.
4. Submit the following if a graduate of a veterinary school or college that is not accredited:
 - a. Official verification of Certification by an approved program that determines educational equivalence; or official verification that applicant is enrolled in an approved program that determines educational equivalence, has successfully completed the English language proficiency requirement of that Program, and is in good standing with that Program; and
 - b. Official verification from a school or college of veterinary medicine and surgery certifying that s/he is a student in good standing and will be within eight months of his/her expected graduation date from any date within the next testing window for the NAVLE; or a certified final transcript from a school or college of veterinary medicine and surgery showing graduation from the school or college.
5. A completed Nebraska State Jurisprudence Examination;
6. A valid verification of age; and
7. The required licensure fee.

180-005.02 Applications for authorization to sit for the NAVLE are due to the Department no later than 60 days prior to the first date of each testing window.

180-006 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses to practice veterinary medicine and surgery issued by the Department under the Act and these regulations expire on April 1 of each even-numbered year. Beginning April 1, 2004 all licenses to practice as a veterinary technician issued by the Department under the Act and these regulations expire on April 1 of each even-numbered year.

180-006.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements pursuant to 172 NAC 180-008;
2. Pay the renewal fee pursuant to 172 NAC 180-013;

3. Respond to the following questions:

- a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
- b. Have you been convicted of a misdemeanor or felony?

These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.

4. Cause to be submitted to the Department:

- a. The renewal notice;
- b. The renewal fee;
- c. Attestation of completing the continuing competency requirement pursuant to 172 NAC 180-008 earned within 24 months of the date of expiration or application for waiver of continuing competency;
Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
- d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
- e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

180-006.02 First Notice: At least 30 days before April 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

180-006.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 180-013;
6. The type of continuing competency required for renewal; and
7. The option to place the license on either inactive or lapsed status.

180-006.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing the continuing competency requirement pursuant to 172 NAC 180-008 within 24 months of the date of expiration or application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

180-006.02C If the licensee wishes to place his/her license on inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

180-006.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

180-006.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to 172 NAC 180-006.01 that specify:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 180-014 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of completing the continuing competency requirement within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular fee, and documentation of continuing competency, the license will be revoked pursuant to 172 NAC 180-007.

180-006.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - (1) That s/he has not practiced in Nebraska since the expiration of his/her license; or

- (2) To the actual number of days practiced in Nebraska since the expiration of his/her license.
5. Attestation of completing the continuing competency requirement earned within 24 months of the date of expiration or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

180-006.03B If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

180-006.03C The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

180-006.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice hearing and make proper record of the revocation.

180-006.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

180-006.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 180-006.04 and 180-006.05 will not apply.

180-006.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to

Neb. Rev. Stat. §§71-149 to 71-155 and 184 NAC 1 Rules of Practice and Procedure of the Department.

180-006.08 An individual who practices after expiration of his/her credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 180-014, or such other action as provided in the statutes and regulations governing the credential.

180-007 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department revokes a license within 30 days of its expiration when the licensee fails to meet the renewal requirements.

180-007.01 Revocation for Non-payment of Renewal Fee

180-007.01A When a licensee fails to pay the required renewal fee or fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the license without further notice or a hearing.

180-007.01A1 The revocation notice specifies that the:

1. Licensee was given first and second notice of renewal requirements and the respective dates for these notices;
2. Licensee failed to renew the license or to request that his/her license be placed on inactive or lapsed status;
3. Department has revoked the license;
4. Licensee has a right to appeal the revocation; and
5. Licensee has a right to reinstatement of the license.

180-007.02 Revocation for Failure to Meet Continuing Competency Requirements

180-007.02A When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal, the Department revokes his/her license after notice and opportunity for a hearing.

007.02A1 The revocation notice for failure to meet the continuing competency requirement specifies that the:

1. Licensee was given first and second notice of failure to meet the continuing education requirement and the respective dates of each notice;
2. Licensee either failed to renew the license or to have his/her license placed on inactive or lapsed status;
3. Department will revoke the license within 30 days of the date of the notice unless the licensee requests in writing a hearing;
4. Licensee has a right to appeal the revocation; and
5. Licensee has a right to reinstatement of the license.

180-008 CONTINUING COMPETENCY

180-008.01 General Requirements for Licensee: As a condition for renewal of license, each veterinarian and veterinary technician who is licensed in the State of Nebraska must complete one or a combination of the following continuing competency requirements within the renewal period immediately preceding the license renewal date.

180-008.01A Initial Board Certification or Re-Certification by an AVMA-recognized veterinary specialty organization, obtained during the renewal period immediately preceding the license renewal date, meets the entire requirement for continuing competency for that renewal period.

180-008.01B Professional Certification, as approved in advance by the Board, obtained during the renewal period immediately preceding the license renewal date. Professional certification meets the requirement for continuing competency according to the number of hours of classwork, study time, or other time required to be completed by the practitioner in order to obtain the certification, to be determined in advance by the Board. The following is the number of hours for professional certification that are required to meet the entire requirement for continuing competency for that renewal period:

1. Veterinarians – 32 hours of approved professional certification.
2. Veterinary Technicians – beginning April 1, 2006 and for all subsequent renewals – 16 hours of approved professional certification.

180-008.01C Refresher Courses, as approved in advance by the Board, meet the requirement for continuing competency according to the number of hours attended. The following is the number of hours of refresher courses that are required to meet the entire requirement for continuing competency for that renewal period:

1. Veterinarians – 32 hours of approved refresher courses.
2. Veterinary Technicians – beginning April 1, 2006 and for all subsequent renewals – 16 hours of approved refresher courses.

180-008.01D Inservice Training, as approved in advance by the Board, meets the requirement for continuing competency according to the number of hours attended. The following is the number of hours of inservice training that are required to meet the entire requirement for continuing competency for that renewal period:

1. Veterinarians – 32 hours of approved inservice training.
2. Veterinary Technicians – beginning April 1, 2006 and for all subsequent renewals – 16 hours of approved inservice training.

180-008.01E Clinical Rotations, as approved in advance by the Board, meet the requirement for continuing competency according to the number of hours attended. The following is the number of hours of clinical rotations that are required to meet the entire requirement for continuing competency for that renewal period:

1. Veterinarians – 32 hours of approved clinical rotations.

2. Veterinary Technicians – beginning April 1, 2006 and for all subsequent renewals – 16 hours of approved clinical rotations.

180-008.01F Combinations of approved continuing competency meet the requirement for continuing competency according to the number of hours attended. The following is the total number of hours of continuing competency that are required to meet the entire requirement for continuing competency for that renewal period:

1. Veterinarians – 32 hours total of a combination of approved continuing competency activities.
2. Veterinary Technicians – beginning April 1, 2006 and for all subsequent renewals – 16 hours total of a combination of approved continuing competency activities.

180-008.01G Continuing Education meets the requirement for continuing competency according to the number of hours attended. The following is the number of hours of approved continuing education that are required to meet the entire requirement for continuing competency for that renewal period:

1. Veterinarians - 32 hours of approved continuing education.
2. Veterinary Technicians - beginning April 1, 2006 and for all subsequent renewals - 16 hours of approved continuing education.

180-008.01G1 Types of continuing education programs acceptable for continuing competency credit include, but are not limited to:

1. State, National, and District meetings, i.e., a meeting of the Nebraska Veterinary Medical Association (NVMA) or a veterinary association in any other state, the Nebraska Veterinary Technician Association (NVTA), or a veterinary technician association in any other state, the Nebraska Academy of Veterinary Medicine (NAVMA), the American Veterinary Medical Association (AVMA), the American Association of Bovine Practitioners (AABP), the American Association of Equine Practitioners (AAEP), the American Association of Swine Practitioners (AASP), the American Association of Laboratory Animal Practitioners (AALAP), the American Animal Hospital Association (AAHA), or any satellite organization related to any of the associations listed above:
 - a. One hour credit for each hour of attendance, and only the portion of such meeting which meets the definition of continuing education can be approved for credit.
2. Formal education courses which relate directly to the practice of veterinary medicine and surgery or veterinary technology:
 - a. One hour credit for each hour of attendance.

3. Veterinary and veterinary technology continuing education courses sponsored by accredited colleges of veterinary medicine and surgery or veterinary technology:
 - a. One hour credit for each hour of attendance.
4. Home study courses with a testing mechanism that is scored by the provider or their designee. Licensee will be given credit for home study courses for a maximum of $\frac{1}{4}$ of the total number of hours required for each renewal period.
 - a. One hour credit for each hour of study; no more than $\frac{1}{4}$ of the total number of hours required for each renewal period.
5. Programs approved by the AAVSB Registry of Approved Continuing Education (RACE) which are related to the practice of veterinary medicine and surgery or veterinary technology.
 - a. One hour credit for each hour of attendance.
6. Practice management programs. Licensee will be given credit for practice management programs for a maximum of $\frac{1}{4}$ of the total number of hours required for each renewal period.
 - a. One hour credit for each hour of attendance; no more than $\frac{1}{4}$ of the total number of hours required for each renewal period.
7. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.

180-008.02 As A Condition For Renewal Of License, The Licensee Must:

180-008.02A Submit to the Department an attestation that s/he has met the continuing competency requirement for the renewal period immediately preceding the license renewal date.

180-008.02B Maintain in his/her personal files the certificates or records of credit from acceptable continuing competency activities attended.

180-008.03 Criteria for Acceptable Continuing Competency Activities:

180-008.03A In addition to meeting the specifications for type of program 172 NAC 180-008.01, to be acceptable for license renewal, a continuing competency activity must also meet the following criteria:

1. The activity must be at least one hour in duration;
2. The topic and/or objectives must relate directly to the practice of veterinary medicine and surgery or veterinary technology;

3. The presenter of the activity must be qualified by education, experience or training; and
4. Activities must be open to all veterinarians or veterinary technicians licensed in Nebraska.

180-008.04 Approval of Continuing Competency Activities: Either a provider or a licensee may apply for approval of a continuing competency activity. The approval is granted by the Department and means that the activity has been determined by the Board to meet the criteria for acceptable continuing competency. Approval prior to the renewal date is optional for continuing education, but is provided by the Board as a service to providers and/or licensees who wish to determine if a program meets the criteria for acceptable continuing education. Approval prior to completion of the activity is required for continuing competency activities other than continuing education.

180-008.04A A provider or licensee may submit information about the continuing competency activity to the Board on an application provided by the Department or on an alternate format. Only applications which are complete will be considered.

180-008.04A1 The following information must be included in the application:

1. A description of activity content and/or objectives;
2. A general description of the qualifications of each presenter;
3. The number of hours for which approval is requested, if applicable;
4. The name, address, and telephone number of the provider's program planner;
5. A description of the process the provider uses to verify attendance by the licensee;
6. A sample copy of the documentation the provider issues to the licensee as proof of attendance at the activity; and
 - a. Certificates verifying attendance at approved activities must contain at least the following information:
 - (1) Name of the activity;
 - (2) Name of the provider;
 - (3) Name of the licensee who attended the course;
 - (4) Number of credit hours earned (actually attended) by the licensee, if applicable; and
 - (5) Date(s) the course was attended by the licensee.
7. Location of program.

180-008.04A2 The provider may submit additional documents or information as considered relevant to the application and in compliance with the provisions of 172 NAC 180.

180-008.04A3 The provider must submit a complete application to the Department at least 45 days prior to the date on which the program is to be given to gain approval before the activity is presented.

180-008.04A4 Once a provider is granted approval for a continuing competency activity, reapproval is not required for each subsequent occasion on which the activity is administered so long as the program is not changed or the laws and regulations governing continuing competency are not changed. If any portion of the activity is changed, reapplication must be made in accordance with 172 NAC 180-008 if continued approval is desired.

180-008.04A5 After being granted written approval of the application, the provider is entitled to state upon any publication which advertises or announces the program, the following statement: "This program is approved for ___ hours of continuing competency by the Nebraska Department of Health and Human Services Regulation and Licensure."

180-008.04A6 Post-Program Approval Applications for approval of a continuing education program may be made after the program has occurred. Types of continuing competency other than continuing education must be approved in advance of completion of the activity.

180-008.04B Denial of Continuing Competency Activities.

180-008.04B1 The Department will, upon the recommendation of the Board, deny an application for approval of a continuing competency activity or will suspend or revoke approval of a continuing competency activity on any of the following grounds:

1. Fraud or misrepresentation of information in an application;
2. The program fails to meet the criteria for acceptable continuing competency set forth in 172 NAC 180-008.01 and 180-008.03.

180-008.04B2 An application for approval of continuing competency activities may be approved or denied. Should an application for a continuing competency activity be denied, the applicant will be sent a notice setting forth the reasons for the determination to the last address of record in the Department.

180-008.04B2a Denial of an application will become final 15 days after the mailing of the notice unless the provider, within such 15 day period, will give written notice to the Department of a desire for hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

180-008.05 Waiver of Continuing Competency: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any renewal period or for the period of time when a licensee submits documentation that circumstances beyond his/her control prevented the completion of the requirements.

180-008.05A The circumstances include situations in which the licensee:

1. Holds a Nebraska license but is not practicing veterinary medicine and surgery or as a veterinary technician in Nebraska; or

2. Has been in the service of the regular armed forces of the United States during any part of the 24 months immediately preceding the license renewal date; or
3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required continuing competency during the 24 months immediately preceding the license renewal date; or
4. Has been first licensed within 24 months immediately preceding the renewal date.

180-008.05B Application for Waiver of Continuing Competency: Any licensee who seeks a waiver of continuing competency, in part or in total, for any renewal period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing competency requirements in part or in total for any renewal period. The licensee must submit:

1. A verified, complete application for waiver of continuing competency on a form provided by the Department or on an alternate format which includes the following information. Only applications which are complete will be considered, and the application must be received by the Department on or before April 1 of the year the license is subject to renewal.
 - a. Name of licensee;
 - b. License number;
 - c. State and county where the person signing the affidavit is located;
 - d. Number of continuing competency hours, requested to be waived;
 - e. Reason for requesting a waiver; and
 - f. A signed statement from the applicant that the statements on the application are true and complete.
2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements must include the following:
 - a. If the licensee holds a Nebraska license but has not resided or practiced in Nebraska during any part of the preceding 24 months, s/he must indicate this waiver option on the application.
 - b. If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must indicate this waiver option and submit official documentation stating the dates of the service.
 - c. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing competency during the 24 months immediately preceding the license renewal date, s/he must indicate this waiver option and submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury

and of the recovery period, and that the licensee was unable to attend continuing competency activities during that period.

- d. If the licensee was first licensed within the 24 months immediately preceding the license renewal date, s/he must indicate this waiver option and list the date the license was issued.

180-008.05C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of the requirements.

180-008.05C1 When the Department determines to deny an application for waiver of continuing competency requirements, it will send to the applicant by United States mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

1. The applicant has 30 days from the date of the denial notice to make a written request to the Department for an appeal. The appeal must be conducted in accordance with the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.
2. The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

180-008.05C2 When the Department determines to grant a waiver of continuing competency, the applicant will be notified within 30 days of receipt of the application.

180-008.06 Audit of Continuing Competency: The Board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing competency credits. Each licensee is responsible for maintaining in his/her personal files the certificates or records of credit from acceptable continuing competency activities. Licensees selected for audit are required to produce documentation of meeting the continuing competency requirement for that renewal period.

180-008.06A The Department will send to each licensee selected for audit a notice of audit.

180-008.06B When selected for audit, the licensee must provide satisfactory documentation of meeting the continuing competency requirement for the renewal period.

180-008.06C Failure to comply with the audit may be grounds for non-renewal of the license.

180-009 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF OR DISCIPLINE A LICENSE:

180-009.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 180-003 or is found to be in violation of any of the provisions of 172 NAC 180-009.03.

180-009.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 180-006, 180-008 or 180-009.03.

180-009.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license.
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state.
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01.
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, or licensee's fitness or capacity to practice the profession.
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession.
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so.
9. Having had his/her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked or having had the license, certificate, or registration disciplined in any other manner in accordance with Neb. Rev. Stat. §71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant or licensee similar to acts described in 172 NAC 180-009. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the

taking of other disciplinary measures against it by another state or jurisdiction shall be conclusive evidence.

10. Unprofessional conduct, which term includes all acts specified in Neb. Rev. Stat. § 71-148 and such other acts as may be defined in rules and regulations adopted and promulgated by the Board with the approval of the Department.
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning the licensee's professional excellence or abilities, in advertisements.
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act.
13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes.
14. Willful or repeated violations of the Uniform Licensing Law or 172 NAC 180.
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee is not licensed to practice.
16. Practicing the profession of veterinary medicine and surgery or as a veterinary technician while his/her license is suspended or in contravention of any limitation placed upon his/her license.
17. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or licensee unqualified to practice his/her profession or occupation.
18. Refusal of an applicant for a license or a licensee to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed.
19. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act.
20. Failure to file a report required by Neb. Rev. Stat. § 71-168.

180-009.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend the license of any licensee, the applicant or licensee must be given an opportunity for a hearing before the Department and will have the right to present evidence on his/her own behalf. Hearings before the Department will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

180-010 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

180-010.01 Eligibility

180-010.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

180-010.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

180-010.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 180-014; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

180-010.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 180-003.

180-010.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 180-014;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

180-010.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the request to restore the credential from lapsed to active status; or

2. Restore the credential to active status and impose limitations(s) or other sanctions on the credential.

180-010.02C The Department will act within 150 days on all completed applications.

180-010.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 180-010.02A and 180-010.02B are final.

180-010.03 Requirements to Move a Credential from Inactive Status to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee and any other applicable fees.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

180-010.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. List your professional practice activities since your credential was placed on inactive status;
 - f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed

- your credential on probation?
- (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (17) Have you surrendered your state or federal controlled substances registration?
 - (18) Have you had your state or federal controlled substances registration restricted in any way?
 - (19) Have you been notified of any malpractice claim against you?
 - (20) Has any action or proceeding of a civil nature been brought against you concerning care or treatment of an animal, regardless of whether or not such action or proceeding was ultimately withdrawn, dismissed, settled or resulted in a judgement?

g. A statement describing all:

- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the

- conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- h. Attestation that the continuing competency requirements for renewal have been met;
- 2. The renewal fee and any other applicable fees;
 - 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

180-010.04A If an applicant has practiced while his/her credential was inactive, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 180-014;
- 2. Initial disciplinary action against the credential;
- 3. Deny the request to move the credential from inactive to active status; or
- 4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

180-010.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request to move the credential from inactive to active status; or
- 3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

180-010.04C In either event pursuant to 180-010.04A or 180-010.04B, a notice and the

EFFECTIVE DATE
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opportunity for hearing will be given to the applicant.

180-010.04D The Department will act within 150 days on all completed applications.

180-010.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet the renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

180-010.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. List your professional practice activities since your credential was revoked.
 - f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your credential on probation?
 - (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?

- (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (17) Have you surrendered your state or federal controlled substances registration?
 - (18) Have you had your state or federal controlled substances registration restricted in any way?
 - (19) Have you been notified of any malpractice claim against you?
 - (20) Has any action or proceeding of a civil nature been brought against you concerning care or treatment of an animal, regardless of whether or not such action or proceeding was ultimately withdrawn, dismissed, settled or resulted in a judgement?
- g. A statement describing all:
- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of :
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any

professional credential held by the applicant during the time period since the credential was revoked;

(a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

(3) Disciplinary charges pending against any professional credential held by the applicant.

h. Attestation that the continuing competency requirements for renewal have been met;

2. The renewal fee, the late fee of \$35 and any other applicable fees.

3. Attestation by the applicant:

a. That s/he has not practiced in Nebraska since s/he last held an active credential; or

b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

(1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 180-014 in which case a notice and opportunity for hearing will be sent to the applicant.

(2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 180-010.06B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

180-010.06A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions or restrictions; or
3. Deny the reinstatement.

180-010.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstate the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 180-014 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:

- a. Reinstatement with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 180-014 if warranted; or
- b. Deny the reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

180-010.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement as prescribed in Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

180-010.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each

having personal knowledge of the activities of the petitioner since the credential was revoked.

c. Containing the following information about the applicant:

- (1) Name;
- (2) Address;
- (3) Social security number; and
- (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
- (5) List your professional practice activities since your license was revoked.
- (6) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (a) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your credential on probation?
 - (d) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing agency?
 - (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?

- (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you surrendered your state or federal controlled substances registration?
 - (r) Have you had your state or federal controlled substances registration restricted in any way?
 - (s) Have you been notified of any malpractice claim against you?
 - (t) Has any action or proceeding of a civil nature been brought against you concerning care or treatment of an animal, regardless of whether or not such action or proceeding was ultimately withdrawn, dismissed, settled or resulted in a judgement?
- (7) A statement describing all:
- (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the applicant explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any health care professional credential held by the applicant during the time period since the credential was revoked; and
 - [1] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.
- (8) Attestation that the continuing competency requirements for renewal have been met.

2. The renewal fee, the late fee of \$75 and any other applicable fees.

3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 180-014 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 180-010.08F.

180-010.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

180-010.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

180-010.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

180-010.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

180-010.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

180-010.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

180-010.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

180-010.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement with terms, conditions, or restrictions.

180-010.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

180-010.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

180-010.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

180-010.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

180-010.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.

2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by laws;
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

180-010.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) List your professional activities since your credential was suspended, limited or revoked;
 - (6) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (a) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your credential on probation?
 - (d) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing agency?

- (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder; schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you surrendered your state or federal controlled substances registration?
 - (r) Have you had your state or federal controlled substances registration restricted in any way?
 - (s) Have you been notified of any malpractice claim against you?
 - (t) Has any action or proceeding of a civil nature been brought against you concerning care or treatment of an animal, regardless of whether or not such action or proceeding was ultimately withdrawn, dismissed, settled or resulted in a judgement?
- (7) A statement describing all:
- (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked:
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was

- obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner;
 - (8) Any continuing competency activities.
2. The reinstatement fee of \$75;
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 180-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 180-010.10G.

180-010.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148;
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any

- combination of such examinations; or
4. Require the petitioner to complete additional education.

180-010.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

180-010.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

180-010.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

180-010.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

180-010.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

180-010.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

180-010.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

180-010.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

180-010.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:

- (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

180-010.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:

- (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

180-010.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

180-010.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time.

180-010.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

180-010.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your credential?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your credential?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your credential on probation?
 - (4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?

- (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (17) Have you surrendered your state or federal controlled substances registration?
- (18) Have you had your state or federal controlled substances registration restricted in any way?
- (19) Have you been notified of any malpractice claim against you?
- (20) Has any action or proceeding of a civil nature been brought against you concerning care or treatment of an animal, regardless of whether or not such action or proceeding was ultimately withdrawn, dismissed, settled or resulted in a judgement?

f. A statement describing all:

- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

(3) Disciplinary charges pending against any professional credential held by the applicant.

- g. Any continuing competency activities.
- h. Attest:

- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
- (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

180-010.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 180-014;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

180-010.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request for restoration of the credential; or
- 3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

180-010.11A4 In either event pursuant to 172 NAC 180-010.11A2 or 180-010.11A3, a notice and the opportunity for hearing will be given to the applicant.

180-010.11A5 The Department will act within 150 days on all completed applications.

180-010.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time.

180-010.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

180-010.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 180-014.

180-010.13 Credentials Voluntarily Surrendered or Limited Permanently.

180-010.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

180-011 UNPROFESSIONAL CONDUCT: In addition to the unlawful or unprofessional acts listed in Neb. Rev. Stat. §§ 71-147 71-148, the following conduct will be considered unprofessional acts as defined by the Board [Neb. Rev. Stat. §71-147(10)]:

1. Conduct by a veterinarian, or a veterinary technician, that is likely to deceive, defraud, or harm the public;
2. Making a false or misleading statement regarding his/her skill as a veterinarian, or as a veterinary technician, or the efficacy or value of the medicine, device, treatment, or remedy prescribed by him/her or used at his/her direction in the practice of veterinary medicine and surgery or, in his/her practice as a veterinary technician.
3. Gross negligence in the practice of veterinary medicine and surgery, or in the practice as a veterinary technician.
4. Practice or other behavior that demonstrates a willful rendering of substandard care, either individually or as a part of a third-party reimbursement agreement or other agreement;
5. The use of any false, fraudulent, deceptive or misleading statement in any document pertaining to the practice of veterinary medicine and surgery, or practice as a veterinary technician.
6. Commission of any act of sexual abuse, misconduct, or exploitation related to the person's practice of veterinary medicine and surgery or practice as a veterinary technician;
7. Prescribing, selling, administering, or distributing, any drug legally classified as a controlled substance, other than with proper registration to prescribe controlled substances;
8. Diagnosing, treating, prescribing for or in any way providing medical care as described in Neb. Rev. Stat. §71-1,154(3)(a) for a human.
9. Conviction of any state or federal law or regulation relating to a drug legally classified as a controlled substance;
10. Conviction of any state or federal law or regulation relating to a drug legally classified as prohibited for use in food animals by the United States Drug Enforcement Agency;
11. Failure to report to the Department the relocation of any or all of his/her office(s) or place(s) of practice, in or out of the jurisdiction, within 90 days of such relocation;
12. Failure to furnish the Board, its investigators or representatives, information legally requested by the Board;

13. Willful or repeated violation of any provision(s) of Neb. Rev. Stat. §71-1,152.01 to 71-1,166 or any Rules and Regulations promulgated thereto;
14. To advertise in a manner that deceives, misleads, or defrauds the public. The following advertising practices will be considered to be deceptive:
 - a. To advertise or promote any veterinary service as free or below the advertiser's or promoter's own cost without revealing in the advertising or promotion the minimum expenditure the consumer must incur in order to receive the service. If the consumer need not incur any expense to obtain the service, then the advertising or promotion must state that there is no minimum purchase required;
 - b. To place in any advertisement a name which is different than the name that appears on the veterinarian's or veterinary technician's license;
 - c. To fail to inform the patient of any time schedule within which a fee is to be effective, if the fee applies to a particular service for a given time;
 - d. To fail to charge the same fee for a service as that which is advertised;
 - e. To advertise that in exchange for a particular fee, a manifestly incurable disease can be permanently cured;
 - f. To advertise or promote any veterinary service without plainly revealing in advertising or promotion the name(s) of all veterinary licensees practicing at the outlet(s) as described in Neb. Rev. Stat. §71-107;
 - g. To advertise or promote any veterinary service with statements that cannot be verified, substantiated or measured; and
 - h. To advertise or promote any veterinary service in violation of Neb. Rev. Stat. §§ 87-301 to 87-306, the Uniform Deceptive Trade Practices Act.
15. Failure to properly supervise licensed veterinary technicians or unlicensed assistants.
16. Failure to report to the Department the name of every person without a license or certification that s/he has reason to believe is engaging in the practice of any profession for which a license or certificate is required under the Uniform Licensing Law [Neb. Rev. Stat. §71-168];
17. Receiving or giving fees for professional services to any person in exchange for referring patients;
18. Failure to maintain treatment records for 3 years after the veterinarian's most recent contact with the client and/or patient.
19. Failure to comply with Neb. Rev. Stat. §§71-8401 to 71-8407 regarding access to medical records.
20. Noncompliance with the regulations 172 NAC 180-011 is considered unprofessional conduct as described in Neb. Rev. Stat. §71-147(10) and any licensee or person as

defined herein in violation hereof will be subject to revocation of license or to other penalties as described in Neb. Rev. Stat. §§71-147 to 71-162.

180-012 Reserved

180-013 SCHEDULE OF FEES: The following fees have been set by the Department.

180-013.01 Initial Veterinary License Fee: By an applicant for a license to practice veterinary medicine and surgery, the fee of \$125 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

180-013.02 Initial Veterinary License by Reciprocity Fee: By an applicant for a license, granted on the basis of a license granted by another state or territory, to practice veterinary medicine and surgery, the fee of \$125 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

180-013.03 Proration of Initial Veterinary License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$31.25 and the Licensee Assistance Program fee of \$1.

180-013.04 Initial Veterinary Technician License Fee: By an applicant for a license to practice as a veterinary technician, the fee of \$65 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

180-013.05 Proration of Initial Veterinary Technician License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25.

180-013.06 Initial Temporary Veterinary License Fee: By an applicant for a temporary license to practice veterinary medicine and surgery, the fee of \$50.

180-013.07 Veterinary License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice veterinary medicine and surgery, the fee of \$100 and the Licensee Assistance Program fee of \$2.

180-013.08 Veterinary Technician Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice as a veterinary technician, the fee of \$50 and the Licensee Assistance Program fee of \$2.

180-013.09 Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.

180-013.10 Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of his/her license who fails to pay the renewal on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

180-013.11 Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:

1. The basis on which a license was issued;

2. The date of issuance;
3. Whether disciplinary action has been taken against the license; and
4. The current status of the license.

180-013.12 Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.

180-013.13 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

180-013.14 Administrative Fee: For a denied license or withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the licensing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

180-013.15 Reinstatement Late Fee: For reinstatement of a license: For failure to meet renewal requirements:

1. Within one year the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

180-013.16 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.

180-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

180-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Other government records indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

180-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

180-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

Approved by the Attorney General on December 13, 2004
Approved by the Governor on January 10, 2005
Filed with the Secretary of State on January 10, 2005
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EFFECTIVE
8/26/14

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 182

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 182 LICENSURE OF ANIMAL THERAPISTS

182-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of animal therapists under Neb. Rev. Stat. §§ 38-3301 to 38-3334 and the Uniform Credentialing Act (UCA). These regulations do not apply to:

1. Licensed veterinary technicians;
2. Unlicensed assistants; or
3. Persons who hold a valid credential under the UCA and who consult with a licensed veterinarian or perform collaborative animal health care tasks on a patient under the care of such veterinarian if all such tasks are performed under the immediate supervision of such veterinarian.

182-002 DEFINITIONS

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Adequate records means legible records (either written or electronic) containing, at a minimum, the date, patient, client, diagnosis or service provided, products given, data from tests performed and documentation of any client/agent consent.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or
4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Attest or attestation means that the individual declares that all statements on the application are true and complete.

Board means the Board of Veterinary Medicine and Surgery.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;

6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Health care therapy means health care activities that require the exercise of judgment for which licensure is required under the Uniform Credentialing Act.

Hour means a period of 50 to 60 minutes of formal instruction for purposes of initial education to obtain a credential and continuing education to renew or reinstate a credential.

Inactive credential means a credential which the credential holder has voluntarily placed on inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensed animal therapist means an individual who (1) has and maintains an undisciplined license under the Uniform Credentialing Act for a health care profession other than veterinary medicine and surgery, (2) has met the standards for additional training regarding the performance of that health care profession on animals as required by rules and regulations adopted and promulgated by the Department upon the recommendation of the Board, and (3) is licensed as an animal therapist by the Department.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Served in the regular armed forces has the same meaning as "military service" in these regulations.

Unlicensed assistant means an individual who is not a licensed veterinarian, a licensed veterinary technician, or a licensed animal therapist and who is working in veterinary medicine.

182-003 INITIAL CREDENTIAL

182-003.01 Qualifications: To receive a credential to practice as an animal therapist, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Holds and maintains an undisciplined license under the Uniform Credentialing Act for a health care profession other than veterinary medicine and surgery. Any person who wishes to practice and/or represent himself/herself as an animal therapist, must be licensed as an animal therapist.
4. Education:
 - a. Successfully complete training, approved by the board, regarding the performance of the applicant's specified health care profession on animals;
 - b. Have training in the human profession consistent with the therapy to be provided on animals; and
 - c. Training can be combined from multiple programs.

182-003.02 Application: To apply for a credential to practice as an animal therapist, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or

- (c) Form I-94 (Arrival-Departure Record) number. Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional); and
 - (8) The applicant's fax number (optional).
- b. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced animal therapy in Nebraska before submitting the application; or
 - (2) If s/he has practiced animal therapy in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- c. Training Program: The applicant must list:
 - (1) The name of the training program completed;
 - (2) The location of the training program completed; and
 - (3) The date the training program was completed.
- d. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during his/her education or training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) Any employment disciplinary actions or non-renewal of an employment contract;

- (5) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions; and
 - (6) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
 - e. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation.
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to the conviction;

- (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
 - c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
 - d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
 - e. Documentation showing successful completion of training in animal therapy, including:
 - (1) Name and date of training program completed; and
 - (2) Name of school, college, university that provided the training.
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

182-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

182-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 182-007, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

182-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

182-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 182-010 or such other action as provided in the statutes and regulations governing the credential.

182-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

182-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

182-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

182-004 TRAINING STANDARDS

182-004.01 Standards Applicable to All Professions: In addition to meeting the requirements for the specified health care profession pursuant to 172 NAC 182-004.02, to be acceptable for licensure, a training program must also meet the following criteria:

1. The topic and/or objectives must relate directly to the practice of animal therapy in the specified health care profession;
2. The presenter of the activity must be qualified by education, experience or training;
3. Activities must be open to all persons who hold a Nebraska license to practice the specified health care profession on humans;

4. If the course involves the use of distance learning formats, including, but not limited to, archived video or audio programs, webcasts, telephone broadcasts, or simultaneous broadcasts, those persons not physically attending must have substantially the same opportunity for interaction with those teaching the course as they would if physically present at the same location; and
5. Activities must include a competency assessment or evaluation which may consist of a test, case studies, or other type of competency assessment.

182-004.02 Standards Applicable to Specific Professions

182-004.02A Acupuncture: To be licensed as an Animal Therapist in Acupuncture, an applicant must:

1. Have and maintain an undisciplined license as an acupuncturist, a chiropractor, a physician, an osteopathic physician, or a physician assistant under the Uniform Credentialing Act;
2. Complete a training program that consists of:
 - a. At least 200 hours of instruction and training in veterinary acupuncture in the following areas:
 - (1) Comparative functional anatomy and physiology;
 - (2) Handling and restraint;
 - (3) Zoonotic diseases; and
 - (4) Recordkeeping; and
 - b. At least 50 hours of supervised clinical training.
3. The training program in 182-004.02A Item 1 must be approved by the Board. To be approved by the Board, the training program must:
 - a. Meet the requirements of 172 NAC 182-004.01; and
 - b. Meet the requirements of 172 NAC 182-004.02A.
4. An Animal Therapist in Acupuncture is only allowed to use the following modalities:
 - a. Dry needling;
 - b. Electrostimulation;
 - c. Moxibustion; and
 - d. Laser therapy to stimulate acupuncture points.

182-004.02B Chiropractic: To be licensed as an Animal Therapist in Chiropractic and to practice chiropractic except for acupuncture, an applicant must:

1. Complete a training program that consists of:

- a. At least 210 hours of instruction or course work pertaining to animals in the following areas:
 - (1) Anatomy, including sacropelvic, thoracolumbar, cervical, and extremity;
 - (2) Anatomy laboratory;
 - (3) Behavior;
 - (4) Biomechanics and gait;
 - (5) Chiropractic educational basics;
 - (6) Chiropractic adjusting technique, including lecture and laboratory:
 - (a) Cervical;
 - (b) Thoracic;
 - (c) Lumbosacral;
 - (d) Pelvic; and
 - (e) Extremity;
 - (7) Case management and case studies;
 - (8) Chiropractic philosophy;
 - (9) Differential diagnosis of neuromusculoskeletal conditions;
 - (10) Ethics and legalities;
 - (11) Knowledge of breed anomalies;
 - (12) Motion palpation;
 - (13) Neurology, neuroanatomy, and neurological conditions;
 - (14) Pathology;
 - (15) Physiology;
 - (16) Radiology;
 - (17) Research in current chiropractic and veterinary topics;
 - (18) Restraint;
 - (19) Rehabilitation, current topics, evaluation, and assessment;
 - (20) Normal foot anatomy and normal foot care;
 - (21) Saddle fit and evaluation, lecture, and laboratory;
 - (22) Veterinary educational basics;
 - (23) Vertebral subluxation complex; and
 - (24) Zoonotic diseases; and
 - b. At least 50 hours of the 210 of supervised clinical training.
2. The training program in 172 NAC 182-004.02B Item 1 must be approved by the Board. To be approved by the Board, the training program must:
 - a. Meet the requirements of 172 NAC 182-004.01; and
 - b. Meet the requirements of 172 NAC 182-004.02B.

182-004.02C Veterinary Orthopedic Manipulation (VOM) – A Chiropractic Technique: To be licensed as an Animal Therapist in Veterinary Orthopedic Manipulation (VOM), an applicant must:

1. Have and maintain an undisciplined license as a chiropractor under the Uniform Credentialing Act;
2. Complete a training program in VOM that consists of:
 - a. At least 210 hours of instruction or course work pertaining to animals in the following areas:
 - (1) Anatomy, including sacropelvic, thoracolumbar, cervical, and extremity;
 - (2) Anatomy laboratory;
 - (3) Behavior;
 - (4) Biomechanics and gait;
 - (5) VOM educational basics;
 - (6) VOM adjusting technique, including lecture and laboratory:
 - (a) Cervical;
 - (b) Thoracic;
 - (c) Lumbosacral;
 - (d) Pelvic; and
 - (e) Extremity;
 - (7) Case management and case studies;
 - (8) VOM philosophy;
 - (9) Differential diagnosis of neuromusculoskeletal conditions;
 - (10) Ethics and legalities;
 - (11) Knowledge of breed anomalies;
 - (12) Motion palpation;
 - (13) Neurology, neuroanatomy, and neurological conditions;
 - (14) Pathology;
 - (15) Physiology;
 - (16) Radiology;
 - (17) Research in current VOM and veterinary topics;
 - (18) Restraint;
 - (19) Rehabilitation, current topics, evaluation, and assessment;
 - (20) Normal foot anatomy and normal foot care;
 - (21) Saddle fit and evaluation, lecture, and laboratory;
 - (22) Veterinary educational basics;
 - (23) Vertebral subluxation complex; and
 - (24) Zoonotic diseases; and
 - b. At least 50 hours of the 210 of supervised clinical training.

3. The training program in 172 NAC 182-004.02C Item 1 must be approved by the Board. To be approved by the Board, the training program must:
 - a. Meet the requirements of 172 NAC 182-004.01; and
 - b. Meet the requirements of 172 NAC 182-004.02C.

182-004.02D Massage Therapy: To be licensed as an Animal Therapist in Massage Therapy, an applicant must:

1. Complete a training program that consists of:
 - a. At least 100 hours of instruction or course work pertaining to animals in the following areas:
 - (1) Anatomy and physiology;
 - (2) Pharmacology;
 - (3) Study of gait and movement;
 - (4) Massage therapy techniques;
 - (5) Handling skills;
 - (6) Restraint; and
 - (7) Behavior; and
 - b. At least 50 hours of in-class massage therapy clinics supervised by licensed veterinarians or licensed animal massage therapists.
2. The training program in 172 NAC 182-004.02D Item 1 must be approved by the Board. To be approved by the Board, the training program must:
 - a. Meet the requirements of 172 NAC 182-004.01; and
 - b. Meet the requirements of 172 NAC 182-004.02D.

182-004.02E Physical Therapy/Occupational Therapy: To be licensed as an Animal Therapist in Physical Therapy or Occupational Therapy, an applicant must:

1. Have and maintain an undisciplined license as either a physical therapist or an occupational therapist under the Uniform Credentialing Act;
2. Complete a training program that consists of:
 - a. At least 100 hours of instruction or course work pertaining to animals in the following areas:
 - (1) Assessment and planning of treatment;
 - (2) Behavior;
 - (3) Biomechanics;
 - (4) Common orthopedic and neurological conditions;

- (5) Comparative anatomy and physiology;
 - (6) Restraint;
 - (7) Handling skills;
 - (8) Neurology; and
 - (9) Therapeutic modalities and exercises;
 - b. At least 40 hours of supervised clinical training (internship); and
 - c. A competency assessment or evaluation which may consist of a test, case studies, or other type of competency assessment.
3. The training program in 172 NAC 182-004.02E must be approved by the Board. To be approved by the Board, the training program must:
 - a. Meet the requirements of 172 NAC 182-004.01;
 - b. Meet the requirements of 172 NAC 182-004.02E; and
 - c. Be affiliated with an American Veterinary Medical Association accredited school or college of veterinary medicine or the American College of Veterinary Surgeons.

182-005 CONTINUING COMPETENCY REQUIREMENTS: Each licensed animal therapist holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 182-007.03 and 182-007.04. Each licensed animal therapist is responsible for maintaining certificates or records of continuing competency activities. Acceptable continuing competency activities for all Licensed Animal Therapists are only activities pertaining to animals within the Licensed Animal Therapist's own scope. The following continuing competency activities are limited to no more than two hours of each activity during each two-year renewal period:

1. Clinical observation with a Veterinarian or Licensed Animal Therapist;
2. Home study hours with a testing mechanism;
3. Journal articles with a testing mechanism;
4. Publishing research in animal therapy; and
5. Teaching animal therapy.

All other continuing competency activities have no limitation.

182-005.01 Acupuncture: As a condition of license renewal, Animal Therapists in Acupuncture must complete at least ten hours of acceptable continuing competency activities every two years.

182-005.02 Chiropractic: As a condition of license renewal, Animal Therapists in Chiropractic must complete at least ten hours of acceptable continuing competency activities every two years.

182-005.03 Veterinary Orthopedic Manipulation (VOM) – A Chiropractic Technique: As a condition of license renewal, Animal Therapists in Veterinary Orthopedic Manipulation (VOM) must complete at least ten hours of acceptable continuing competency activities every two years.

182-005.04 Massage Therapy: As a condition of license renewal, Animal Therapists in Massage Therapy must complete at least six hours of acceptable continuing competency activities every two years.

182-005.05 Physical Therapy/Occupational Therapy: As a condition of license renewal, Animal Therapists in Physical Therapy or Occupational Therapy must complete at least six hours of acceptable continuing competency activities every two years.

182-006 PRACTICE REQUIREMENTS: A licensed animal therapist may perform health care therapy on a patient only if:

1. The health care therapy is consistent with the licensed animal therapist's training required for the license referred to under 172 NAC 182-003.01(3);
2. The client presents to the licensed animal therapist a prior letter of referral for health care therapy that includes a veterinary medical diagnosis and evaluation completed by a licensed veterinarian who has a veterinarian-client-patient relationship with the client and the patient and has made the diagnosis and evaluation within 90 days immediately preceding the date of the initiation of the health care therapy;
3. The health care therapy must be consistent with and limited to the veterinary medical diagnosis and evaluation that is included in the letter of referral;
4. The licensed animal therapist provides health care therapy reports at least monthly to the referring veterinarian, except that a report is not required for any month in which health care therapy was not provided; and
5. The licensed animal therapist keeps and maintains adequate records of treatment or service for three years after the licensed animal therapist's most recent contact with the client and/or patient.

182-007 RENEWAL: An individual who wants to renew his/her animal therapist license must request renewal as specified in 172 NAC 182-007.02. All animal therapist licenses issued by the Department will expire on April 1 of each even-numbered year.

182-007.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

182-007.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#) or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number; and
 - c. Must attest that s/he has met the continuing competency requirements specified in 172 NAC 182-005 or has requested a waiver if s/he meets the requirements of 172 NAC 182-007.03 and/or 182-007.04.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:

- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- b. Other Credential: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
- c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
- d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
- e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
- (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department;

3. The renewal fee according to 172 NAC 2.

182-007.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 182-002, is not required to pay the renewal fee or to meet the continuing competency

requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

1. Military identification proving that s/he is in active service;
2. Military orders; or
3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

182-007.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

182-007.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

182-007.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

182-007.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

182-007.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes but is not limited to:

1. Copies of certificates of attendance at continuing competency activities;
2. Copies of educational transcripts reflecting continuing competency activities completed;
3. Copies of letters from employers verifying hours of clinical observation;
4. Copies of journal articles reviewed and verification of having completed an associated testing mechanism;
5. Copies of abstracts of any published research in animal therapy;
6. Copies of brochures that identify the licensee as a speaker or instructor; and
7. E-mails or electronic communications reflecting any of the types of acceptable documentation listed above.

182-007.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

182-007.05E The Department will notify the credential holder upon satisfactory completion of the audit.

182-007.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

182-007.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

182-007.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

182-007.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

182-007.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

182-007.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

182-007.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

182-007.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

182-007.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as an animal therapist terminates.

182-007.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 182-011 or such other action as provided in the statutes and regulations governing the credential.

182-007.08E Reinstatement of an Expired Credential: If a credential holder wants to resume practice as an animal therapist after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 182-010.

182-007.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

182-007.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

182-007.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in practice as an animal therapist, but may represent him/herself as having an inactive credential.

182-007.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 182-010.

182-008 DISCIPLINARY ACTIONS

182-008.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;

5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 182-008.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 182-006.02;
24. Violation of the Automated Medication Systems Act; or
25. Having had his/her license referred to in 172 NAC 182-003.01, item 3, denied, refused renewal, limited, suspended, revoked, or having had other disciplinary measures taken against it.

182-008.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
 - d. By a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Prescribing any controlled substance to:
 - a. Oneself; or
 - b. Except in the case of a medical emergency:
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or

- (5) Any other person living in the same household as the prescriber;
13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
14. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care; and
15. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department.

182-008.03 Temporary Suspension or Limitation

182-008.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 182-008.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

182-008.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

182-008.03C A temporary suspension or temporary limitation of a credential under 172 NAC 182-008.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

182-008.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

182-008.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

182-008.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 182-008.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

182-009 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and
 - d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

182-009.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

182-009.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

182-009.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and
 - c. Any terms and conditions for reinstatement.

182-009.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

182-009.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

182-009.06 Reinstatement following voluntary surrender is set out in 172 NAC 182-010.

182-010 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

182-010.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) The applicant must also provide information related to the following, as requested on the application of the Department:
 - (a) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a

- professional license or permit in any state or jurisdiction including, but not limited to:
- (i) Voluntary surrenders or voluntary limitations;
 - (ii) Currently pending investigations or complaints;
 - (iii) Prior refusals to issue, refusals to renew, or denials of a license or permit;
- (b) Information relating to fitness to practice including, but not limited to:
- (i) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (ii) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
- (c) History of any remedial or disciplinary actions during his/her education or training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
- (d) Any employment disciplinary actions or non-renewal of an employment contract;
- (e) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions; and
- (f) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:

- (1) Has met the continuing competency requirements specified in 172 NAC 182-005 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
- (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
- (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 182-008 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and

2. Fee(s): The following fee(s):
 - a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

182-010.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

182-010.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

182-010.01C The Department will act within 150 days on all completed applications.

182-010.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

182-010.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 182-010.01.

182-010.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
 - (6) The applicant must also provide information related to the following, as requested on the application of the Department:
 - (a) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (i) Voluntary surrenders or voluntary limitations;
 - (ii) Currently pending investigations or complaints;
 - (iii) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (b) Information relating to fitness to practice including, but not limited to:
 - (i) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;

- (ii) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (c) History of any remedial or disciplinary actions during his/her education or training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (d) Any employment disciplinary actions or non-renewal of an employment contract;
 - (e) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions; and
 - (f) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
 - (1) Has met the continuing competency requirements specified in 172 NAC 182-005 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced; and
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 182-007 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and

2. Fee: The renewal fee.

182-010.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

182-010.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

182-010.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 182-010.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 182-011, in which case a separate notice of opportunity for hearing will be sent to the applicant.

182-010.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

182-010.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

182-010.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

182-010.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

182-010.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and

conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

182-010.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

182-011 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

182-011.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;

3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Government records indicate that the person was engaged in practice; and
7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation, prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

182-011.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. Failure to pay an administrative penalty may result in disciplinary action.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

182-011.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

EFFECTIVE
8/26/14

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 182

182-012 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

182-012.01 Initial Licensure Fee for Animal Therapist: By an applicant for a license as an animal therapist, the fee of \$142.

182-012.02 Renewal Fee for Animal Therapist: By an applicant for renewal on a biennial basis of a license as an animal therapist, the fee of \$142.