

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

December 18, 2019  
10:00 a.m. Central Time  
Nebraska State Office Building – Lower Level B  
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed changes to Title 180, Chapter 23 of the Nebraska Administrative Code (NAC) – *Fluoroscopic Education and Training for Certified Registered Nurse Anesthetists*. The chapter establishes the minimum education and training requirements for certified registered nurse anesthetists performing fluoroscopy. The proposed changes remove any duplicative statutory language and unnecessary language from the regulations and update formatting.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or [dhhs.regulations@nebraska.gov](mailto:dhhs.regulations@nebraska.gov), respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

## FISCAL IMPACT STATEMENT

Agency: <b>Department of Health and Human Services</b>	
Title: 180	Prepared by: Julia Schmitt
Chapter: 23	Date prepared: 05/21/2019
Subject: Fluoroscopic Education and Training for Certified Registered Nurse Anesthetists	Telephone: 402/471-0528

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

# PROPOSED REGULATION QUESTIONNAIRE

## Title 180 NAC 23

1) Is the regulation essential to the health, safety, or welfare of Nebraskans?

Yes. The purpose of the regulations are to institute and maintain a program to permit development and utilization of sources of radiation for peaceful purposes consistent with the protection of occupational and public health and safety and the environment. The regulated entities are certified registered nurse anesthetists that are using fluoroscopic radiation generating equipment.

2) Do the costs of the regulation outweigh the benefits? Provide specific data and reasoning.

Yes. Misuse of ionizing radiation can have catastrophic health consequences. The regulations provide safeguards that allow the benefits while minimizing risks. The regulation specify the radiation safety training requirements for nurse anesthetists that want to use fluoroscopic radiation equipment.

3) Does a process exist to measure the effectiveness of the regulation? If so, explain.

Yes. Registrants are inspected for compliance with the radiation safety regulations.

4) Has a less restrictive alternative been considered?

The least restrictive alternative has been chosen. The course specified in the regulations is offered on-line and can be completed in a few hours. It is the least restrictive for Certified Registered Nurse Anesthetists to access education on fluoroscopic radiation safety. The hands-on training can be completed where the CRNAs practice.

5) Was the regulation solely promulgated due a state statutory requirement? If so, provide citations.

Yes, Neb. Rev. Stat. §38-711(2)(f) requires regulations. However, even if the statute were changed to "may", regulations would still be needed to ensure safe radiation use by regulated entities.

6) Was the regulation promulgated as a result of a federal mandate? If so, include copies of the applicable federal statutes and regulations.

No.

# PROPOSED REGULATION POLICY PRE-REVIEW CHECKLIST

**Agency:** DHHS – Division of Public Health

**Title, Chapter of Regulation:** Title 180 NAC 23

**Subject:** Fluoroscopic Education and Training for Certified Registered Nurse Anesthetists

**Prepared by:** Julia Schmitt

**Telephone:** 402-471-0528

## **A. Policy Changes and Impacts**

1. What does the regulation do and whom does it impact? Provide a brief description of the proposed rule or regulation and its impacts on state agencies, political subdivisions, and regulated persons or entities.

This revision re-promulgates Title 180 NAC 23 to remove any unnecessary language or repeated statutory language from the regulations and to update formatting.

The regulations apply to certified registered nurse anesthetists performing fluoroscopy.

2. Describe changes being proposed to current policy and briefly provide rationale.

No changes in policy.

## **B. Why is the rule necessary? Explain and provide an identification of authorizing statute(s) or legislative bill(s).**

1. Update of regulation (repeal of obsolete statutes, reflect current policy, editing or technical language changes, etc.)

This revision re-promulgates Title 180 NAC 23 to remove any unnecessary language or repeated statutory language from the regulations and to update formatting.

2. Annual changes – cost of living, hunting season schedules, etc.

No.

3. Law was changed – federal \_\_\_\_ or state \_\_\_\_ [Cite authorizing statute(s) or legislative bill(s)] N/A
4. Extension of established policy or program, new initiatives or changes in policy (within statutory authority) No
5. Constituent initiated No
6. Financial needs – increases/decreases in fees No
7. Litigation requires changes in rules No
8. Addresses legal or constitutional concerns of Attorney General’s office No
9. Implements federal or court mandate No
10. Other (explain)

**C. What happens if these rules are not adopted?**

Unnecessary and redundant regulations would remain in place.

**D. Policy Checklist**

1. Is this an update or editorial change reflecting essentially no change in policy? Yes
2. Does the policy in the proposed regulation reflect legislative intent? Yes.
3. Is the policy proposed in the regulation a state mandate on local government? Yes Is it funded? Yes
4. Is the policy proposed in the regulation a federal mandate on local government? No Is it funded? N/A

**E. Fiscal Impact. In addition to completing the required Fiscal Impact Statement (a copy must be attached to this document), the agency must address the following:**

No fiscal impact.

1. Will the proposed regulation reduce, increase, or have no change in resources – funds, personnel or FTE? No change.

2. Have initial contacts been made with citizens or organizations that may be impacted by the proposed regulation? **No, because the changes are formatting and editorial. We will solicit public comment before a public hearing.**
3. Does the proposed regulation impact another agency? **No** Explain the impact.
4. Will the proposed regulation reduce, increase, or have no change on reporting requirements of businesses? **No change**
5. What is the agency's best estimate of the additional or reduced spending? If there is none, please note. If receipt of federal funds is contingent upon approval of the proposed regulation, then indicate the amount and nature of the federal funds affected, and enclose laws or correspondence from federal officials substantiating the information.

**No change in spending.**

6. Include a description of the impact that the proposed regulation will have on the number of state employees and how the agency intends to address proposed increases or decreases in FTE.

**No Impact.**

**F. Unique problems or issues and recommendations.**

**No known problems or issues.**

**G. Who is expected to be affected, or to oppose or support the proposed regulation? Explain what initial informal contacts have been made with organizations or citizens who may be affected by the regulation prior to the public hearing.**

**No known supporters or opponents.**

**DHHS will solicit public comment on the proposed regulations before the public hearing.**

**H. Are these proposed rules a likely candidate for negotiated rulemaking? Explain. Has the process been completed? If so, explain how the issues were addressed.**

**No.**

TITLE 180            CONTROL OF RADIATION

CHAPTER 23        FLUOROSCOPIC EDUCATION AND TRAINING FOR CERTIFIED  
REGISTERED NURSE ANESTHETISTS

001. SCOPE AND AUTHORITY. This chapter establishes the minimum education and training requirements for certified registered nurse anesthetists performing fluoroscopy. The regulations are authorized by and implement the Radiation Control Act, Nebraska Revised Statute (Neb. Rev. Stat.) § 71-3508 and the Certified Registered Nurse Anesthetist Practice Act, Neb. Rev. Stat. § 38-711. Upon successful completion of the approved education and training the certified registered nurse anesthetist may use fluoroscopy in conjunction with a licensed medical radiographer to perform authorized duties and functions.

002. DEFINITIONS. The following definitions apply to this chapter:

002.01 APPROVED EDUCATION PROGRAM. The University of Nebraska Medical Center's "Fluoroscopy Radiation Safety Training for UNMC/The Nebraska Medical Center" or equivalent course as approved jointly by the Department and the Advanced Practice Registered Nursing Board is an approved educational program.

002.02 FLUOROSCOPY. An imaging technique used to obtain real-time moving images of the internal structures of a patient through the use of a fluoroscope is fluoroscopy.

003. GENERAL REQUIREMENTS. Documentation of completion of required education and training must be maintained at each facility where a Certified Registered Nurse Anesthetist performs fluoroscopy.

004. ADMINISTRATIVE CONTROLS. Prior to the use of fluoroscopic equipment by a certified registered nurse anesthetist the registrant must ensure that:

- (A) The certified registered nurse anesthetist has successfully completed an approved educational program in fluoroscopy and received hands-on training in the use of a fluoroscope by completing at least three fluoroscopic procedures under the direct supervision of and in the physical presence of a physician or a person meeting the requirements of 180 NAC 23; and
- (B) The requirements of Neb. Rev. Stat. § 38-711 (3) are met.

EFFECTIVE DATE \_\_\_\_\_ NEBRASKA DEPARTMENT OF  
JUNE 21, 2009 \_\_\_\_\_ HEALTH AND HUMAN SERVICES \_\_\_\_\_ 180 NAC 23

TITLE 180 \_\_\_\_\_ CONTROL OF RADIATION

CHAPTER 23 \_\_\_\_\_ FLUOROSCOPIC EDUCATION AND TRAINING FOR CERTIFIED  
REGISTERED NURSE ANESTHETISTS

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JUNE 21, 2009 \_\_\_\_\_ HEALTH AND HUMAN SERVICES \_\_\_\_\_ 180 NAC 23

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TITLE 180 \_\_\_\_\_ CONTROL OF RADIATION

CHAPTER 23 \_\_\_\_\_ FLUOROSCOPIC EDUCATION AND TRAINING FOR CERTIFIED  
REGISTERED NURSE ANESTHETISTS

### 23-001 SCOPE AND AUTHORITY

23-001.01 180 NAC 23 establishes the minimum education and training requirements for certified registered nurse anesthetists performing fluoroscopy. The regulations are authorized by and implement the Nebraska Radiation Control Act, Neb. Rev. Stat. § 71-3508 and the Certified Registered Nurse Anesthetist Practice Act, Neb. Rev. Stat. § 38-711.

23-001.02 Upon successful completion of the approved education and training the Certified Registered Nurse Anesthetist will be able to use fluoroscopy in conjunction with a licensed medical radiographer to perform authorized duties and functions.

### 23-002 DEFINITIONS

Approved Education Program means the University of Nebraska Medical Center's "Fluoroscopy Radiation Safety Training for UNMC/The Nebraska Medical Center" or equivalent course as approved jointly by the Department and the Advanced Practice Registered Nursing Board.

Certified registered nurse anesthetist means a licensed registered nurse certified by a board-approved certifying body and licensed under the Advanced Practice Registered Nurse Practice Act (Neb. Rev. Stat. §§38-201 to 38-212) to practice as a certified registered nurse anesthetist in the State of Nebraska. **Removed.**

Fluoroscopy means an imaging technique used to obtain real-time moving images of the internal structures of a patient through the use of a fluoroscope.

### 23-003 GENERAL REQUIREMENTS

— 23-003.01 Documentation of completion of required education and training must be maintained at each facility where a Certified Registered Nurse Anesthetist performs fluoroscopy.

### 23-004 ADMINISTRATIVE CONTROLS

23-004.01 Prior to the use of fluoroscopic equipment by a Certified Registered Nurse Anesthetist the registrant must ensure that the Certified Registered Nurse Anesthetist has successfully completed an approved educational program in fluoroscopy and received hands-on training in the use of a fluoroscope by completing at least three fluoroscopic procedures under the direct supervision of and in the physical presence of a physician or a person meeting the requirements of this Chapter.

EFFECTIVE DATE \_\_\_\_\_ NEBRASKA DEPARTMENT OF  
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~~23-004.02~~ The registrant must ensure that the requirements of Neb. Rev. Stat. § 38-711  
~~(3)~~ are met.