

2004

STATE OF NEBRASKA

TITLE 172 CHAPTER 120

Regulations Governing the Practice of

OPTOMETRY

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 120 PRACTICE OF OPTOMETRY

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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 120

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 120 PRACTICE OF OPTOMETRY

120-001 SCOPE AND AUTHORITY: These regulations apply to licensure of Optometrists pursuant to Neb. Rev. Stat. §§ 71-1,133 to 71-1,136.09 and the Uniform Licensing Law.

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 Department upon recommendation of the Board.

Act means Neb. Rev. Stat. §§ 71-1,133 to 71-1,136.09, known as the Optometry Practice Act.

Approved Clinical Facility means a clinical facility sponsored by an accredited college of optometry.

Approved Examination means an examination which is approved by the Department of Health upon recommendation of the Board of Optometry.

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

Board means the Board of Optometry.

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.

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.

Continuing education provider means an institution or individual that presents approved continuing education programs to licensees.

Criterion-referenced standard setting method means a method for pre-determining an absolute standard based on the difficulty of the items. Acceptable criterion-referenced standard setting methods include Anghoff, Nedelsky, Ebel and modifications of these methods.

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 optometry. 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 himself or herself as a licensed person and to practice optometry.

Licensee means an individual licensed to practice optometry in Nebraska.

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.

Optometric services means those services provided by an optometrist pursuant to Neb. Rev. Stat. §§ 71-1,133 through 71-1,136.09, the Optometry Practice Act.

Pattern of negligent means a continued course of 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 means topical ophthalmic pharmaceutical agents which treat eye infection, inflammation, and superficial abrasions, or oral analgesics, including oral analgesics enumerated in Schedules III and IV of Neb. Rev. Stat. § 28-405 necessary to treat conditions of the eye and visual system, or oral pharmaceutical agents for the treatment of infections of the eye and visual system, or oral anti-inflammatory agents to treat conditions of the eye, ocular_adnexa, or visual system excluding steroids and immunosuppressive agents.

Supervised 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.

Verified means sworn to before a Notary Public.

120-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person, except those listed in Neb. Rev. Stat. § 71-1,134, who wishes to practice and/or represent himself/herself as an Optometrist must be licensed as an Optometrist. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

120-003.01 Licensure of an Optometrist

120-003.01A Procedures for Licensure as an Optometrist by Examination: An applicant for a license to practice optometry on the basis of an examination must:

1. Have graduated from an accredited school or college of Optometry;
2. Pass an examination which consists of the following components:
 - a. Part I, Part II, and Part III of the examination given by the National Board of Examiners in Optometry;
 - (1) The applicant must achieve a passing score as determined by using a criterion referenced standard setting method.
3. Pass a jurisprudence examination that relates to the statutes that govern optometry with a minimum score of 60% or above.
4. 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
5. Submit to the Department:
 - a. A complete application for a license to practice optometry may be submitted on a form provided by the Department or on an alternate format. Only applications which are complete will be considered;
 - (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 optometry college attended by the applicant;
 - (9) Date of graduation from accredited optometry college;
 - (10) Whether you are applying for licensure by examination or by reciprocity;
 - (11) Answer the following questions either yes or no:
 - (a) Have you taken Parts I, II, and III given by the National Board of Examiners in Optometry?

- (b) Have you contacted the National Board of Examiners in Optometry to send your examination scores directly to the Department?
 - (c) Have you requested that a certified transcript showing graduation be sent directly from your college or school of optometry to the Department (transcripts marked "issued to student" are unacceptable)?
 - (d) Have you ever been licensed as an optometrist in another state or jurisdiction? If yes, list all other states where you have been or are currently licensed, including license number, issuance date and expiration date;
- (12) Answer the following questions either yes or no; if you answer 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 Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority ever 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 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) 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?
 - (j) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (k) Have you ever been convicted of a felony?
 - (l) Have you ever been convicted of a misdemeanor?

- (m) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (n) Have you ever been notified of any malpractice claim against you?
- (13) A signed 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 Optometry showing graduation from the school or college;
 - c. Official documentation, sent directly to the Department, of the scores obtained on Part I, Part II, and Part III of the examination given by the National Board of Examiners in Optometry (NBEO);
 - d. The required licensure fee; and
 - e. A copy of birth certificate, marriage license, driver's license or other valid verification of age.

120-003.01B The Department will act within 150 days upon all completed applications for licensure.

120-003.01C Procedures for Licensure as an Optometrist Based on a License in Another Jurisdiction: An applicant who is licensed as an Optometrist in another jurisdiction must:

- 1. Meet the requirements of 172 NAC 120-003.01A;
- 2. Be currently licensed to practice optometry in another state or jurisdiction; and
- 3. Submit to the Department:
 - a. The following documentation from the licensing agency of the jurisdiction where the applicant was initially licensed:
 - (1) A certification may be submitted on a form provided by the department or on an alternate format. The certification must reflect 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; and
 - (2) The nature of disciplinary actions, if any, taken against the applicant's license;
 - (3) If the applicant's license was based on the National Board of Examiners in Optometry (NBEO) Examination:
 - (a) The date of the applicant's license;
 - (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 was based on an examination other than the National Board of Examiners in Optometry (NBEO) Examination:
 - (a) The date of the applicant's license;
 - (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 National Board of Examiners in Optometry (NBEO) Examination; or
- (5) If the applicant's license was not based on the National Board of Examiners in Optometry (NBEO) Examination or an equivalent examination, the applicant must apply for licensure pursuant to 172 NAC 120-003.01A;
- b. Documentation that the applicant has been actively engaged in the practice of optometry under such license for at least one of the three years immediately preceding the date of the application for Nebraska licensure.

120-003.01C1 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 for practicing optometry in Nebraska and will recommend to the Department to issue or deny the license.

120-003.01D The Department will act within 150 days upon all completed applications for licensure.

120-003.01E If an applicant has met all the requirements for licensure pursuant to 172 NAC 120-003.01A or 172 NAC 120-003.01C within 90 days prior to the biennial renewal date, the applicant may:

1. Request that the Department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or
2. Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial renewal fee.

120-004 JURISPRUDENCE EXAMINATION PROCEDURES

120.004.01 Administrative Procedures: The jurisprudence examination is administered:

1. By the Department throughout the year upon request by the applicant;
2. By the NBEO in conjunction with their national examination; or
3. By requesting that another State Board of Optometry proctor the examination at their office.

120-004.02 The Department will notify an applicant in writing of the jurisprudence examination results within 60 days after administration of the examination.

120-005 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses issued by the Department under the Act and these regulations expire on August 1 of each even-numbered year.

120-005.01 Renewal process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements pursuant to 172 NAC 120-007;
2. Pay the renewal fee pursuant to 172 NAC 120-012;
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 32 hours of continuing education or continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency, of which 16 hours must be earned annually. 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;
 - c. 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.

120-005.02 First Notice: At least 30 days before August 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.

120-005.02A 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 120-012;
6. The number of continuing education hours or type of continuing competency required for renewal; and
7. The option to place the license on either inactive or lapsed status.

120-005.02B 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 32 hours of continuing education or continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency, of which 16 hours must be earned annually; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

120-005.02C 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.

120-005.02D 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.

120-005.03 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 120-005.01 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 120-013 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 120-006.

120-005.03A 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 32 hours of continuing education or continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency, of which 16 hours must be earned annually; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

120-005.03B 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 licensed be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

120-005.03C 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.

120-005.04 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.

120-005.05 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.

120-005.06 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 120-005.04 and 172 NAC 120-005.05 will not apply.

120-005.07 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.

120-005.08 An individual who practices after expiration of his/her credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 120-013 or such other action as provided in the statutes and regulations governing the credential.

120-006 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.

120-006.01 Revocation for Non-payment of Renewal Fee

120-006.01A 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 will automatically revoke the license without further notice or a hearing.

120-006.01A1 The revocation notice will specify:

1. That the licensee was given first and second notice of renewal requirements and the respective dates for these notices;
2. That the licensee failed to renew the license or to request that his/her license be 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.

120-006.02 Revocation for Failure to Meet Continuing Competency Requirements

120-006.02A 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.

120-006.02A1 The revocation notice for failure to meet continuing competency requirements will specify:

1. That the licensee was given first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. That the licensee either failed to renew the license or to have his/her license placed on inactive or lapsed status;
3. That the Department will revoke the license within 15 days of date of receipt of the notice unless the licensee requests in writing a hearing;
4. That the licensee has a right to appeal the revocation; and
5. That the licensee has a right to reinstatement of the license.

120-007 CONTINUING COMPETENCY

120-007.01 General Requirements for Licensee: On or before August 1, 1986, and on or before August 1 of each even-numbered year thereafter, each Optometrist who is in active practice in the State of Nebraska must:

1. Complete 32 hours of approved continuing education during the preceding 24 month period of which 16 hours must be earned annually. No more hours than the total number of approved hours offered in Nebraska will be required during this period;
2. Submit to the Department an affidavit of continuing education hours on a form provided by the Department or on an alternate format. The completed affidavit must include the following information:
 - a. The topic of the program;
 - b. Name of approved continuing education provider;
 - c. Location of continuing education;
 - d. The date(s) of the program; and
 - e. The number of hours received for the program.
3. Be responsible for:
 - a. Maintaining in his/her personal files the certificates or records of credit from continuing education activities received from approved continuing education providers;
 - b. Verifying with the Department that the continuing education programs are 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) State and national meetings, i.e., 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 two hours of the continuing education requirements by home study during each year of 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, the profession related Internet courses, CD-ROM courses, videotape courses, and audiotape courses.
 - (b) One credit hour for each hour of study; no more than two credit hours of this type of continuing education may be counted within each year of the 24 month renewal period.
 - (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) 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.

- 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.
4. If applicable, submit an application for waiver of the continuing competency requirement pursuant to 172 NAC 120-007.03.

120-007.02 Approval of Continuing Education Programs

120-007.02A 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 optometry;
3. The presenter of the program must be qualified by education, experience or training; and
4. Programs must be open to all Optometrists licensed in Nebraska.

120-007.02B The continuing education 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 in 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 continuing education provider and its administrator, operating officer and proctor;
6. A description of the process the continuing education provider uses to verify attendance by the licensee;
7. A sample copy of the documentation the continuing education 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 continuing education provider which may be an individual, company, or institution;
 - (3) Name of the licensee who attended the course;
 - (4) Number of credit hours earned (actually attended) by the licensee; and
 - (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.

120-007.02C The continuing education provider may submit the additional documents or information as considered relevant to the application and in compliance with the provisions of 172 NAC 120.

120-007.02D The continuing education 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.

120-007.02E Once a continuing education provider is granted approval by the Board for a continuing education program, re-approval will not be required for each subsequent occasion on which the program is administered, so long as the program or the laws and regulations governing continuing education are not changed. If any portion of the program is changed or if the applicable statutes and regulations have changed, reapplication must be made pursuant to 172 NAC 120-007.02B.

120-007.02F Post-Program Approval Requested by the Continuing Education Provider: Applications for approval of a continuing education program may be made after the date of the program.

120-007.02G After the Board has granted its written approval of the application, the continuing education 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 Optometry."

120-007.02H Denial of Continuing Education Programs

120-007.02H1 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 pursuant to 172 NAC 120-007.02. 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 optometry.

120-007.02H2 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.

120-007.02H2a Denial of an application submitted by a continuing education provider will become final 15 days after the mailing of the notice unless the continuing education provider, within the 15 day period, gives written notice to the Department of a desire for hearing. The hearing will be conducted pursuant to the Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

120-007.02H3 Only applications which are complete will be considered. To be complete, an application must include:

1. All of the information requested on a verified complete application for approval of continuing education program on a form provided by the Department or on an alternate format; and
2. The verified signature of the licensee or administrator or operating officer of the continuing education provider making the application.

120-007.02H4 An applicant may submit the additional documents or information as the applicant may consider relevant to the application and in compliance with the Act and 172 NAC 120.

120-007.02H5 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 10 days in which to provide the information necessary to complete the application. Should an applicant fail to complete the application within the 10 day period, all materials will be returned and a new application will be necessary.

120-007.03 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 licensing period when a licensee submits documentation that circumstances beyond his/her control prevented the completion of the requirements.

120-007.03A These circumstances must include situations in which the licensee:

1. Holds a Nebraska license but is not practicing optometry 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 26 months immediately preceding the renewal date.

120-007.03B 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 competency requirements in part or in total for any two year 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. Only applications which are complete will be considered, and the application must be received by the Department on or before August 1 of the year the license is subject to renewal; and

2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements pursuant to 172 NAC 120-008.03A must include the following:
 - a. If the licensee holds a Nebraska license but has not resided in Nebraska or practiced in Nebraska during any part of the preceding 24 months, s/he must indicate this waiver option on the application; or
 - 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 on the application and submit official documentation stating the dates of the service; or
 - 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, s/he must indicate this waiver option on the application 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; or
 - d. If the licensee was first licensed within the 26 months immediately preceding the license renewal date, s/he must indicate this waiver option on the application and list the date said license was issued.

120-007.03C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, based on documentation that circumstances beyond the applicant's control prevented completion of the requirements.

120-007.03C1 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, a notice setting forth the reason for the denial determination.

120-007.03C1a The applicant has 15 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 The Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

120-007.03C1b The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

120-007.03C2 When the Department determines to grant a waiver of continuing competency, the applicant will be notified within 30 days of receipt of the application.

120-007.04 Audit of Continuing Education: The Board may biennially select, in a random manner, a sample of 5-20% the license renewal applications for audit of continuing education credits. Each licensee must be responsible for maintaining in his/her personal files the certificates or records of credit from continuing education activities received from approved continuing education providers. Licensees selected for audit are required to produce documentation of his/her attendance at those continuing education activities listed on his/her renewal application.

120-007.04A The Department will send to each licensee selected for audit a notice of audit.

120-007.04B When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in approved continuing education activities listed on the licensee's sworn affidavit.

120-007.04C Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

120-008 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

120-008.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 120-003 or is found to be in violation of any of the provisions of 172 NAC 120-008.03.

120-008.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 120-005, 172 NAC 120-007.04C or in 172 NAC 120-008.03.

120-008.03 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 with gross negligence, (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 pursuant to 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, 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 must 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 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 172 NAC 120;
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 Optometry 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 optometry; 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 optometry; and
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.

120-008.04 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 must have the right to present evidence on his/her own behalf. 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.

120-009 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.

120-009.01 Eligibility

120-009.01A 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.

120-009.01B 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.

120-009.01C An individual who practices prior to re-credentialed, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 120-013; 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.

120-009.02 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 120-003.

120-009.02A 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 120-013;
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.

120-009.02B 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.

120-009.02C The Department will act within 150 days on all completed applications.

120-009.02D 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 120-009.02A and 120-009.02B are final.

120-009.03 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; 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.

120-009.04 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. Answer the following questions either yes or no; if you answer yes, explain the circumstances and the outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority ever 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 ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (5) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (6) Have you ever been requested to appear before any licensing agency?

- (7) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) 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?
 - (9) 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?
 - (10) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (11) Have you ever been convicted of a felony?
 - (12) Have you ever been convicted of a misdemeanor?
 - (13) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (14) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (15) Have you ever surrendered your state or federal controlled substances registration?
 - (16) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (17) Have you ever been notified of any malpractice claim against you?
- f. List your professional practice activities for the time period since your credential was active.
- 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. Verification 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.

120-009.04A If an applicant has practiced while his/her credential was inactive, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 120-013;
- 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.

120-009.04B 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.

120-009.04C In either event pursuant to 120-009.04A or 120-009.04B, a notice and the opportunity for hearing will be given to the applicant.

120-009.04D The Department will act within 150 days on all completed applications.

120-009.05 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; 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.

120-009.06 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. Answer the following questions either yes or no; if you answer yes, explain the circumstances and the outcome. These questions pertain to the time period since your credential was active.

- (1) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Suspended Revoked Limited
- (2) Has any licensing or disciplinary authority ever 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 ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
- (5) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
- (6) Have you ever been requested to appear before any licensing agency?
- (7) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
- (8) 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?
- (9) 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?
- (10) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
- (11) Have you ever been convicted of a felony?
- (12) Have you ever been convicted of a misdemeanor?

- (13) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (14) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (15) Have you ever surrendered your state or federal controlled substances registration?
 - (16) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (17) Have you ever been notified of any malpractice claim against you?
- f. List your professional practice activities for the time period since your credential was active.
- 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. 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 120-013 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 120-009.06B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

120-009.06A 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.

120-009.06B 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. Reinstatement the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 120-013 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 120-013 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.

120-009.07 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 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.

120-009.08 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) Answer the following questions either yes or no; if you answer yes, explain the circumstances and the outcome. These questions pertain to the time period since your credential was active.
 - (a) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority ever 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 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) 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?
 - (j) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (k) Have you ever been convicted of a felony?
 - (l) Have you ever been convicted of a misdemeanor?
 - (m) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (n) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (o) Have you ever surrendered your state or federal controlled substances registration?
 - (p) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (q) Have you ever been notified of any malpractice claim against you?
- (6) List your professional practice activities for the time period since your credential was active.
- (7) 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.
 - (8) 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.
 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 120-013 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 120-013.08F.

120-009.08A 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.

120-009.08B 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.

120-009.08C If the Board recommends reinstatement of the credential, no public

hearing need be held on the petition.

120-009.08D 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.

120-009.08D1 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.

120-009.08E 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.

120-009.08F 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.

120-009.08F1 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.

120-009.08F2 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.

120-009.08F3 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.

120-009.08F4 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.

120-009.08F5 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.

120-009.09 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. 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.

120-009.10 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) Answer the following questions either yes or no; if you answer yes, explain the circumstances and the outcome. These questions pertain to the time period since your credential was active.
 - (a) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority ever 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 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) 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?
 - (j) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (k) Have you ever been convicted of a felony?
 - (l) Have you ever been convicted of a misdemeanor?
 - (m) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (n) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (o) Have you ever surrendered your state or federal controlled substances registration?
 - (p) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (q) Have you ever been notified of any malpractice claim against you?

- (6) List your professional practice activities for the time period since your credential was active.
 - (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 120-013 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 120-009.10G.

120-009.10A 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.

120-009.10B 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.

120-009.10C 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.

120-009.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

120-009.10E 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.

120-009.10E1 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.

120-009.10E2 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.

120-009.10F 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.

120-009.10G 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.

120-009.10G1 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.

120-009.10G2 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.

120-009.10G3 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.

120-009.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time:

120-009.11A 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.

120-009.11A1 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;
 - 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 the outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority ever 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 ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (5) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (6) Have you ever been requested to appear before any licensing agency?
 - (7) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) 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?
- (9) 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?
 - (10) During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (11) Have you ever been convicted of a felony?
 - (12) Have you ever been convicted of a misdemeanor?
 - (13) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (14) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (15) Have you ever surrendered your state or federal controlled substances registration?
 - (16) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (17) Have you ever been notified of any malpractice claim against you?
- f. List your professional practice activities for the time period since your credential was active.
- 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.

120-009.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 120-013;
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.

120-009.11A3 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.

120-009.11A4 In either event pursuant to 120-009.11A2 or 120-009.11A3, a notice and the opportunity for hearing will be given to the applicant.

120-009.11A5 The Department will act within 150 days on all completed applications.

120-009.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

120-009.12A 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.

120-009.12B 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 120-013.

120-009.13 Credentials Voluntarily Surrendered or Limited Permanently.

120-009.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

120-010 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 pursuant to Neb. Rev. Stat. § 71-147(10):

1. Conduct by an optometrist that is likely to deceive, defraud, or harm the public;
2. 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;
3. Gross negligence in the practice of optometry;
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 optometry;
6. Commission of any act of sexual abuse, misconduct, or exploitation related to the person's practice of optometry;
7. 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;
8. Knowingly giving to a habitue or addict any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug;
9. 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;
10. Conviction of any state or federal law or regulation relating to a drug legally classified as a controlled substance;
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 the 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. §§ 71-1,133 through 71-1,136.09 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 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 that are addressed by the advertisement;
 - c. To fail to place in any advertisement either the word Optometrist or the abbreviation O.D. behind one's name when it appears in an advertisement;
 - d. To place in any advertisement a name which 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 name of the professional body from which certification or accreditation was received when referring to certificates from professional accrediting bodies;
 - i. To advertise or promote any optometric service without plainly revealing in the advertising or promotion the name(s) of all optometric licensees practicing at the outlet(s) as described in Neb. Rev. Stat. § 71-107;
 - j. To advertise or promote any optometric service with statements that cannot be verified, substantiated or measured; and
 - k. To advertise or promote any optometric service in violation of Neb. Rev. Stat. §§ 87-301 through 87-306, the Uniform Deceptive Trade Practices Act.
15. The designation of any person licensed pursuant to Neb. Rev. Stat. § 71-1,133 other than by the terms Optometrist or O.D.;
 16. Practicing optometry without the licensee's credential available in each place of practice. Failure to show their credential upon request. Failure to use the designation of Optometrist or O.D. on all signs, announcements, stationery, and advertisements of licensee's services pursuant to Neb. Rev. Stat. § 71-107;
 17. 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 Licensing Law Neb. Rev. Stat. § 71-168;
 18. Receiving or giving fees for professional services to any person in exchange for referring patients; and
 19. 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.
 20. Noncompliance with 172 NAC 120-010 will be considered unprofessional conduct pursuant to 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 pursuant to Neb. Rev. Stat. §§ 71-147 to 71-162.
 21. 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;
 22. Misrepresentation of material facts in applying for or procuring a renewal of a license or certification;
 23. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
 24. The use of false or deceptive statements in any advertisement;

25. Prescribing drugs or devices to an individual the optometrist has never met based solely on answers to questions provided by the internet, telephone, or FAX;
26. Prescribing drugs or devices to an individual without first establishing a proper optometrist-patient relationship. A proper optometrist-patient relationship requires that the optometrist make an informed optometric judgement upon examination, diagnosis, and formulation of a treatment plan and that arrangements exist to insure availability of the optometrist or optometrist coverage for follow-up patient care;
27. Disruptive behavior 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.

120-011 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.

120-011.01 Certification to Use Pharmaceutical Agents for Diagnostic Purposes

120-011.01A Persons Certified in Nebraska on or Before April 30, 1987: Licensed optometrists certified by the Department to use pharmaceutical agents for diagnostic purposes on or before April 30, 1987, need not be recertified pursuant to 172 NAC 120-011.01C.

120-011.01B Persons Certified in Other States on or Before April 30, 1987: Any licensed optometrist certified in another state to use pharmaceutical agents for diagnostic purposes on or before April 30, 1987, may be so certified in Nebraska on the basis of certification in another state under the conditions set forth below. In order to be certified, such persons must:

1. Have a current license to practice optometry in the State of Nebraska;
2. Have been certified in the other state on or before April 30, 1987, under standards which are substantially equivalent to the standards in effect in this state on or before April 30, 1987, pursuant to 172 NAC 120-011.01C; and
3. Submit to the Department:
 - a. A complete application on a form provided by the Department or on an alternate format. The application must include the following information:
 - (1) Name;
 - (2) Address, including city, state and zip code;

- (3) Telephone number (optional);
 - (4) Nebraska optometry license number (if applicable);
 - (5) Name of accredited optometry college attended;
 - (6) Location of accredited optometry college attended;
 - (7) Date of graduation from accredited optometry college;
 - (8) Verified documentation 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 included at least 100 hours of lectures, clinics and examination which involved at a minimum a study of:
 - (a) Ocular anesthetics, mydriatics, and cycloplegics;
 - (b) Ocular toxicity of pharmaceutical agents;
 - (c) Allergies of ocular agents;
 - (d) Pharmacological effects of all ocular drug substances;
 - (e) Consideration of the mechanism of action of anesthetics, cycloplegics and mydriatics in human beings and the use of such substances in the diagnosis of occurring ocular disorders;
 - (f) Correlating the utilization of pharmaceutical agents and optical instrumentation and procedures; and
 - (g) A statement that the applicant passed the required examination;
- b. Verification on a form provided by the Department or on an alternate format, that the applicant is duly certified to use pharmaceutical agents for diagnostic purposes and should contain the following information:
- (1) Applicant's name;
 - (2) Name of other licensing agency;
 - (3) Diagnostic Certification number issued by other licensing agency;
 - (4) Date of issuance and date of expiration;
 - (5) Name of examination(s) taken including examination score information, if available;
 - (6) Answer the following questions either yes or no; if you answer yes, explain the circumstances and outcome:
 - (a) Has the applicant's diagnostic certification ever been suspended?
 - (b) Has the applicant's diagnostic certification ever been revoked?
 - (c) Has the applicant's diagnostic certification ever had any other disciplinary action taken against it?
 - (d) The nature of disciplinary actions, if any, taken against the applicant's diagnostic certification;
 - (e) As far as the licensing agency's records are concerned, is the applicant entitled to your endorsement?

- (7) Date verification was prepared;
 - (8) Signature of official from licensing agency;
 - (9) Printed name and title of official from licensing agency;
 - (10) Name and address of licensing agency; and
 - (11) Seal of the licensing agency.
- c. Documentation from the proper authority of the place from which s/he comes, of the standards maintained there, and the laws and rules and regulations relating to certification to use pharmaceutical agents for diagnostic purposes in effect at the time the applicant was certified.
 - d. The required certification fee.
4. The Department will:
 - a. Act within 150 days upon all completed applications for certification; and
 - b. Issue to each qualified person a certificate to use pharmaceutical agents for diagnostic purposes.

120-011.01C Certification After April 30, 1987: Applicants for certification to use pharmaceutical agents for diagnostic purposes who do not meet the conditions pursuant to 172 NAC 120-011.01A and 172 NAC 120-011.01B must:

120-011.01C1 Have a current Nebraska license to practice optometry and meet the following criteria:

1. Have graduated from an accredited school or college of optometry after August 25, 1989; or
2. Satisfactorily complete an approved course in pharmacology provided by an accredited school or college of optometry;
 - a. An approved course in pharmacology for a certification to use pharmaceutical agents for diagnostic purposes must meet the following criteria:
 - (1) 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;
 - (2) 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;
 - (3) Include at least 100 hours of classroom education, clinical training, and examination; and
 - (4) Correlate the utilization of pharmaceutical agents and optical instrumentation and procedures; and

3. Pass an approved examination which covers ocular pharmacology for the use of pharmaceutical agents for diagnostic purposes pursuant to 172 NAC 120-011.01C1 item 2 administered by the National Board of Examiners in Optometry (NBEO) with a passing score as determined by a criterion-referenced standard setting method on ocular pharmacology, or the applicant must pass an examination which covers ocular pharmacology pursuant to 172 NAC_120-011.01C1 item 2 administered by an accredited school or college of optometry with a passing score as determined by a criterion-referenced standard setting method on ocular pharmacology; and
4. Applicants who have graduated from an accredited school or college of optometry prior to August 25, 1989, must submit to the Department:
 - a. A complete application on a form provided by the Department or on an alternate format as outlined in 172 NAC 120-011.01B item 3.a.(1) through (8);
 - b. Official documentation of passing the approved examination; and
 - c. The required certification fee; or
5. Applicants who have graduated from an accredited school or college of optometry after August 25, 1989, must submit to the Department:
 - a. A complete application on a form provided by the Department or on an alternate format as outlined in 172 NAC 120-011.01B item 3.a.(1) through (7);
 - b. Official documentation of passing the approved examination; and
 - c. The required certification fee.

120-011.01C2 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 120-011.01A, 172 NAC 120-011.01B, or 172 NAC 120-011.01C, a certificate to use pharmaceutical agents for diagnostic purposes.

120-011.02 Certification to Use Pharmaceutical Agents for Therapeutic Purposes

120-011.02A 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. Have graduated from an accredited school or college of optometry after August 25, 1989; or

- b. Satisfactorily complete the following educational requirements:
- (1) Forty clock hours of classroom didactic education concerning the use of pharmaceutical agents for therapeutic purposes. These 40 clock hours must have been obtained after January 1, 1984, and they must have been obtained from an accredited institution which uses staff, facilities, and administration that is comparable when the education is offered either on the institution's campus or at an alternate site; and the institution must have a curriculum for the use of pharmaceutical agents for therapeutic purposes. These 40 hours must include:
 - (a) A review of general pharmacology and therapeutics;
 - (b) A review of ocular therapeutic pharmacology;
 - (c) Diagnosis and treatment of diseases of the eye, ocular adnexa, and visual system.
 - (d) Diagnosis of corneal disease and trauma including corneal foreign bodies;
 - (e) Diagnosis and treatment of anterior segment eye diseases;
 - (f) Clinical procedures related to the diagnosis and treatment of the eye, ocular adnexa, and visual system;
 - (g) Ocular manifestations of systemic disease;
 - (h) A review of systemic disease syndromes;
 - (i) Ocular therapy including management of acute systemic emergencies;
 - (j) Consultation criteria in ocular disease and trauma; and
 - (2) Sixty clock hours of supervised clinical training as it applies to optometry with particular emphasis on the examination, diagnosis and treatment of the eye, ocular adnexa, and visual system. This training must have been completed after January 1, 1984, and it must include, but is not limited to, case histories, diagnosis, treatment and management regimens, special instrumentation and grand rounds; and
- c. Pass an approved examination which covers the Treatment and Management of Ocular Disease (TMOD) administered by the International Association of Boards (IAB) or the National Board of Examiners in Optometry (NBEO) with a passing score as determined by a criterion-referenced standard setting method, or pass Part II of the examination administered by the NBEO with a passing score as determined by a criterion-referenced standard setting method.
- d. Applicants who have graduated from an accredited school or college of optometry prior to August 25, 1989, must submit to the Department:
- (1) Name;
 - (2) Address, including city, state and zip code;
 - (3) Nebraska optometry license number;
 - (4) Name of accredited optometry college attended;

- (5) Location of accredited optometry college attended;
 - (6) Date of graduation from accredited optometry college;
 - (7) Whether the applicant contacted the National Board of Optometry (NBEO) to send his/her examination score in the Treatment and Management of Ocular Disease (TMOD);
 - (8) Date the applicant sat for the TMOD Examination;
 - (9) Verified documentation from an accredited school or college of optometry of successful completion of the didactic education and supervised clinical training including the number of hours of supervised clinical training completed by the applicant;
 - (10) Official documentation of passing the approved examination; and
 - (11) The required certification fee; or
- e. Applicants who have graduated from an accredited school or college of optometry after August 25, 1989, must submit to the Department:
- (1) Name;
 - (2) Address, including city, state and zip code;
 - (3) Nebraska optometry license number;
 - (4) Name of accredited optometry college attended;
 - (5) Location of accredited optometry college attended;
 - (6) Date of graduation from accredited optometry college;
 - (7) Whether the applicant contacted the National Board of Optometry (NBEO) to send his/her examination score in the Treatment and Management of Ocular Disease (TMOD);
 - (8) Date the applicant sat for the TMOD Examination;
 - (9) Official documentation of passing the approved examination; and
 - (10) The required certification fee.
2. The Department will:
- a. Act within 150 days upon all completed applications for certification; and
 - b. Issue to each person who meets the requirements in 172 NAC 120-011.02A item 1., a certificate to use pharmaceutical agents for therapeutic purposes.

120-011.02B Procedures for Use of Pharmaceutical Agents Other than Oral for the Treatment of Glaucoma are Listed Below:

1. An optometrist who wishes to use pharmaceutical agents other than oral for the treatment of glaucoma must meet one of the following:
 - a. An optometrist who has graduated from an accredited school or college of optometry prior to January 1, 1996, who holds a Nebraska license to practice optometry and is certified to use pharmaceutical agents for therapeutic purposes must, prior to treating glaucoma:

- (1) Hold a current license to practice optometry in another state which includes glaucoma certification and that the educational requirements for that glaucoma certification are determined by the Nebraska Board of Optometry to be equivalent to the requirements pursuant to 172 NAC 120-011.02A through 172 NAC 120-011.02A item 2.b.; or
 - (2) Meet the requirements pursuant to 172 NAC 120-011.02A through 172 NAC 120-011.02A item 2.b. within the two years immediately preceding the date of application for updated therapeutic certification which includes the use of pharmaceutical agents for the treatment of glaucoma; or
 - (3) Complete a glaucoma refresher course of at least ten hours, approved by the Department upon recommendation of the Board of Optometry.
 - (4) Failure to complete the education prior to January 1, 2000, will result in the revocation of the licensee's certification to use pharmaceutical agents for therapeutic purposes.
 - b. An optometrist who has graduated from an accredited school or college of optometry prior to January 1, 1996, and who applies for a license to practice optometry on or after July 15, 1998, must meet the requirements pursuant to 172 NAC 120-011.02B item 1.a.(1) or 172 NAC 120-011.02B item 1.a.(2) or 172 NAC 120-011.02B item 1.a.(3).
 - c. An optometrist who has graduated from an accredited school or college of optometry after January 1, 1996, must be deemed to have met the educational requirements for certification to use pharmaceutical agents for therapeutic purposes which includes the treatment and management of glaucoma.
2. An optometrist who meets the requirements in 172 NAC 120-011.02B item 1.a. or 172 NAC 120-011.02B item 1.b. or 172 NAC 120-011.02B item 1.c must submit to the Department:
- a. Name;
 - b. Address, including city, state, zip code;
 - c. Nebraska optometry license number;
 - d. Nebraska therapeutic certification number;
 - e. Name of accredited optometry college attended;
 - f. Date of graduation from accredited optometry college;
 - g. For applicants who graduated from optometry college prior to January 1, 1996, who hold a Nebraska license to practice optometry and are therapeutically certified, one of the following:
 - (1) Proof that the applicant holds a current license to practice optometry in another state which includes glaucoma certification and documentation of the educational requirements for that glaucoma certification from that state; or

- (2) Proof that the applicant has met the requirements for Nebraska therapeutic certification within the two years immediately preceding the date of application for updated therapeutic certification; or
 - (3) Proof that the applicant has completed a glaucoma refresher course of at least ten hours that has been approved by the Department upon recommendation of the Board of Optometry and documentation of the glaucoma refresher course s/he has completed;
 - h. For applicants who graduated from optometry college prior to January 1, 1996, who are applying for a Nebraska license to practice optometry on or after July 15, 1998, one of the following:
 - (1) Proof that the applicant holds a current license to practice optometry in another state which includes glaucoma certification and documentation of the educational requirements for that glaucoma certification from that state; or
 - (2) Proof that the applicant has met the requirements for Nebraska therapeutic certification within the two years immediately preceding the date of application for updated therapeutic certification; or
 - (3) Proof that the applicant has met the requirements for Nebraska therapeutic certification, but it has been longer than two years ago, so s/he has also completed a glaucoma refresher course of at least ten hours that has been approved by the Department upon recommendation of the Board of Optometry and documentation of the glaucoma refresher course s/he has completed;
 - i. For applicants who graduated from optometry college after January 1, 1996:
 - (1) Proof that the applicant has met the educational requirements for certification to use pharmaceutical agents for therapeutic purposes which includes the treatment and management of glaucoma by virtue of graduation from an accredited school or college of optometry after January 1, 1996.
3. The Department will:
 - a. Act within 150 days upon all completed applications for updated therapeutic certification which includes the use of pharmaceutical agents for the treatment of glaucoma; and
 - b. Issue to each person who meets the requirements of 172 NAC 120-011.02B item 1.a. or 172 NAC 120-011.02B item 1.b. the authority to use pharmaceutical agents for the treatment of glaucoma.
4. No course of instruction in the treatment of glaucoma will be approved by the Department upon the recommendation of the Board of Optometry unless:

- a. It is taught by an institution that is recognized by the United States Department of Education or its successor; and
- b. The content for the course is certified to the Board by the institution as being comparable in content to a course of instruction in the treatment of glaucoma required by other licensing boards for licensees or registrants allowed to treat glaucoma in the scope of their professional practice.

120-012 SCHEDULE OF FEES: The following fees have been set by the Department:

120-012.01 Initial Optometry License Fee: By an applicant for a license to practice optometry, the fee of \$200 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

120-012.02 Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$50 and the Licensee Assistance Program fee of \$1.

120-012.03 Initial Optometry License by Reciprocity Fee: By an applicant for a license to practice optometry, granted on the basis of a license granted by another state or territory, the fee of \$200 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

120-012.04 Proration of Initial License by Reciprocity Fee: For issuance of a license, granted on the basis of a license granted by another state or territory, that will expire within 180 days after initial issuance date, a fee of \$50 and the Licensee Assistance Program fee of \$1.

120-012.05 Diagnostic Certification Fee: By an applicant for a certification to use pharmaceutical agents for diagnostic purposes, the fee of \$10.

120-012.06 Therapeutic Certification Fee: By an applicant for a certification to use pharmaceutical agents for therapeutic purposes, the fee of \$10.

120-012.07 Optometry License Renewal Fee: By an applicant for a renewal on a biennial basis of a license to practice optometry, the fee of \$10 and the Licensee Assistance program fee of \$2.

120-012.08 Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.

120-012.09 Renewal Late Fee: By an applicant for renewal on a biennial basis of 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.

120-012.10 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 the 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.

120-012.11 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.

120-012.012 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

120-012.13 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.

120-012.14 Reinstatement Late Fee: For reinstatement of a license 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.

120-012.15 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.

120-013 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.

120-013.01 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.

120-013.02 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 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.

120-013.03 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.

120-014 - RESERVED

120-015 PRESCRIBING AND APPLICATION OF CONTACT LENSES: Pursuant to Neb. Rev. Stat. §§ 71-1,133 and 71-1,134 only optometrists and persons licensed to practice medicine and surgery are authorized to prescribe and apply (fit) contact lenses. 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.

120-016 DELEGATION TO OPTOMETRIC ASSISTANTS: Pursuant to Neb. Rev. Stat. §§71-1,134 and 71-1,135.07, any licensed optometrist may employ optometric assistants and may delegate the performance of certain duties to optometric assistants under supervision.

120-016.01 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.

120-016.02 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.

120-016.03 Authorized Duties: Optometric assistants, under the supervision or direct supervision of a licensed optometrist, may perform the following duties:

120-016.03A 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.

120-016.03B Under Direct Supervision:

1. Perform Goldmann contact tonometry;
2. Instill medication as instructed by the supervising optometrist; and
3. Perform final nervous system assessment.

Each optometric assistant involved in the data collection must sign the chart indicating their participation.

120-016.04 Prohibited Duties: A licensed optometrist may not delegate the following:

1. Ophthalmoscopy;
2. Gonioscopy;
3. Biomicroscopy for the purpose of ocular health assessment;
4. Final refraction;
5. Determination of any prescription, education or treatment plans;
6. Removal of supericial eyelid, conjunctival, and corneal foreign bodies; and
7. Ordering procedures and laboratory tests rational to the diagnosis of conditions or diseases of the human eye, ocular adnexa, or visual system.