

TITLE 172

PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 29

PRACTICE OF CHIROPRACTIC LICENSURE OF CHIROPRACTORS

29-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of chiropractors under Neb. Rev. Stat. §§ 38-801 to 38-811 and the Uniform Credentialing Act (UCA).

~~29-001 SCOPE AND AUTHORITY: These regulations apply to licensure of chiropractors/ chiropractic physicians as defined by Neb. Rev. Stat. §§ 71-177 to 71-182 and the Uniform Licensing Law.~~

29-002 DEFINITIONS

Accountability means being responsible and answerable.

1. Chiropractic accountability means being responsible and answerable for decisions and for the action or inaction of self and/or others, and for the resultant client/patient outcomes related to decisions and action or inaction; and
2. Unlicensed person accountability means being responsible and answerable for the action or inaction of self.

~~Accredited chiropractic program or institution means a school or college which meets the conditions pursuant to Neb. Rev. Stat. § 71-180. The Department will recognize, upon the recommendation of the Board, colleges or schools of chiropractic accredited by the Council on Chiropractic Education or other federally approved chiropractic accrediting agency provided the college or school meets the conditions pursuant to Neb. Rev. Stat. § 71-180.~~

Accredited College of Chiropractic means:

1. One which is approved by the board;
2. A legally chartered college of chiropractic requiring for admission a diploma from an accredited high school or its equivalent and, beginning with students entering a college of chiropractic on or after January 1, 1974, at least two years credit from an accredited college or university of this or some other state, which requirement will be regularly published in each prospectus or catalog issued by such institution;
3. One which conducts a clinic for patients in which its students are required to regularly participate in the care and adjustment of patients;
4. One giving instruction in anatomy, orthopedics, physiology, embryology, chemistry, pathology, health ecology, bacteriology, symptomatology, histology, spinal analysis, diagnosis, roentgenology, neurology, and principles and practice of chiropractic; and
5. One requiring an actual attendance for four college years totaling not less than four thousand hours.

Act means Neb. Rev. Stat. §§ 38-801 to 38-811-71-177 to 71-182, known as the Practice of Chiropractic Practice Act.

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

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

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

Assist means to give aid and support in the performance of an activity.

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

Board means the Board of Chiropractic.

Board approved accredited college of chiropractic means colleges or schools of chiropractic meeting the conditions of an Accredited College of Chiropractic in 172 NAC 29-002 and accredited by the Council on Chiropractic Education - United States (CCE-US)

Chiropractic adjustment means the same as the term joint manipulation and means a high velocity thrust, which carries a joint beyond the normal physiological range of motion and is accompanied by joint cavitations whether audible or inaudible. The patient cannot prevent motion beyond the physiological range. Joint manipulation commences where manual therapy or grades one through four mobilization ends. Motion beyond the physiological range of motion occurs without the patient's ability to control such motion. This includes, but is not limited to, a high velocity low amplitude thrust.

Chiropractor/Chiropractic Physician means an individual who is currently licensed or otherwise authorized to practice chiropractic pursuant to the Uniform Credentialing Act. Licensing Law.

Chiropractic service means:

1. Assessing human responses to actual or potential health conditions;
2. Establishing a diagnosis;
3. Establishing a plan of care for the client/patient, including goals, outcomes, and prescriptions for treatments or referrals;
4. Implementing the plan of care through the direct and indirect provision of care; and
5. Evaluating client/patient responses to the plan of care and treatments, and making adjustments to the plan of care based upon the evaluation.

Competence means the state or quality of being capable as a result of having the required knowledge, skills, and ability.

1. Chiropractic competence means the ability of the chiropractor/chiropractic physician to apply interpersonal, technical and decision-making skills at the level of knowledge consistent with the prevailing standard for the chiropractor's/chiropractic physician's current practice role.
2. Unlicensed person competence means the ability of the unlicensed person:
 - a. To utilize effective communication;
 - b. To collect basic objective and subjective data;
 - c. To perform selected non-complex tasks safely, accurately, and according to standard procedures; and
 - d. To seek guidance and direction when appropriate.

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

~~Completed application means an application with all of the information requested on the application filled in, fees, and all required documentation submitted.~~

Complex tasks means those tasks that require:

1. ~~_____~~ Chiropractic judgment to safely alter standard procedures pursuant to the needs of the client/patient; or
2. ~~_____ require~~ Chiropractic judgment to determine how to proceed from one step to the next; or
3. ~~_____ require~~ the multi-dimensional application of the chiropractic service.

Confidential information means information protected as privileged under applicable law.

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

Continuing education means the offering of instruction or information to licensees for the purpose of maintaining skills necessary to the safe and competent practice of chiropractic. The continuing education may be offered under the names of "scientific school", "clinic", "forum", "lecture", "course of study" or "educational seminar".

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

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

instruction with a similar designation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.
~~Department means the Department of Health and Human Services Regulation and Licensure.~~

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

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

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

~~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~~ 60 minutes of formal instruction, otherwise known as a "contact hour."

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

~~Inactive status means the voluntary termination of the right or privilege to practice chiropractic. The licensee retains the right or privilege to represent himself/herself as having an inactive license.~~

~~Lapsed status means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice chiropractic.~~

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

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

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 29.

Non-complex tasks mean those tasks that can safely be performed according to exact directions, do not require alteration of the standard procedure, and for which the results and client/patient responses are predictable.

Official transcript means issued by and under the original seal of the educational institution.

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

~~Practice of chiropractic means one or a combination of the following, without the use of drugs or surgery:~~

- ~~1. The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders, and disease by the use of diagnostic X-ray, physical and clinical examination, and routine procedures including urine analysis; or~~
- ~~2. The science and art of treating human ailments, disorders, and disease by locating and removing any interference with the transmission and expression of nerve energy in the human body by chiropractic adjustment, chiropractic physiotherapy, and the use of exercise, nutrition, dietary guidance, and colonic irrigation.~~

~~The use of X-rays beyond the axial skeleton as described in item 1 of this section shall be solely for diagnostic purposes and shall not expand the practice of chiropractic to include the treatment of human ailments, disorders, and disease not permitted when the use of X-rays was limited to the axial skeleton.~~

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

Protocol means a written document that is created or approved by a chiropractor/chiropractic physician that guides subjective and objective data collection, and defines interventions, treatments, or tasks to be performed based upon the collected data.

Provider means an institution or individual that presents continuing education programs to licensees.

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

Stable and/or predictable means a situation where the client/patient's clinical and behavioral status and chiropractic care needs are determined by a chiropractor/chiropractic physician to be non-fluctuating and consistent or where the fluctuations are expected and the interventions are planned, including those clients/patients whose deteriorating condition is expected.

Supervision means the provision of oversight and includes maintaining accountability to determine whether or not chiropractic care is adequate and delivered appropriately. Supervision includes the assessment and evaluation of client/patient condition and responses to the chiropractic plan of care, and evaluation of the competence of persons providing chiropractic care.

1. Direct supervision means that the responsible chiropractor/chiropractic physician is physically present in the clinical area, and is able to assess, evaluate, and respond immediately. Direct supervision does not mean that the responsible chiropractor/chiropractic physician must be in the same room, or "looking-over-the-shoulder" of the persons providing chiropractic care; and
2. Indirect supervision means that the responsible chiropractor/chiropractic physician is available through periodic inspection and evaluation and telecommunication for direction, consultation, and collaboration.

Unlicensed person means a person who does not have a license to practice chiropractic and who functions in an assistant or subordinate role to the chiropractor/chiropractic physician.

Verified means sworn to before a Notary Public.

~~29-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person, except those listed in Neb. Rev. Stat. § 71-178, who wishes to practice and/or represent himself/herself as a chiropractor/chiropractic physician, must be licensed as a chiropractor/chiropractic physician. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.~~

~~29-003.01 Licensure Of A Chiropractor/Chiropractic Physician~~

~~29-003.01A Procedures For Licensure As A Chiropractor/Chiropractic Physician By Examination: An applicant for a license to practice chiropractic on the basis of an examination must:~~

- ~~1. Have graduated from an accredited chiropractic program or institution;~~
- ~~2. Pass an examination which consists of the following components:~~
 - ~~a. Parts I, II, and the Physiotherapy section of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each section;~~
 - ~~b. Part III, the Written Clinical Competency Examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375; AND~~

- ~~c. The National Board of Chiropractic Examiners Practical examination Part IV with a scaled score of at least 375; OR~~
- ~~d. The National Board of Chiropractic Examiners Special Purpose Examination for Chiropractic (SPEC) with a scaled score of at least 375.~~
- ~~3. 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 married under the age of 19 years, his/her minority ends; and~~
- ~~4. Submit to the Department:~~
 - ~~a. A complete application on a form provided by the Department or on an alternate format which includes the following information:~~
 - ~~(1) Complete name including middle or maiden name;~~
 - ~~(2) Mailing address including street, P.O. Box, route, city, state, and zip code;~~
 - ~~(3) Date of birth (month, day, and year);~~
 - ~~(4) Place of birth (city, state);~~
 - ~~(5) Telephone number including area code (optional);~~
 - ~~(6) Social Security Number;~~
 - ~~(7) Name of accredited chiropractic program or institution;~~
 - ~~(8) Date of graduation from chiropractic program or institution;~~
 - ~~(9) If convicted of a felony or misdemeanor applicant must submit the following:~~
 - ~~(a) Official courts records relating to the conviction and disposition; and~~
 - ~~(b) Letter of explanation of conviction;~~
 - ~~(10) If applicant was denied licensure or the right to take an examination applicant must submit an explanation of the denial;~~
 - ~~(11) List state, license number, date license issued, and expiration date of license for each state where you have been or are currently licensed;~~
 - ~~(12) If any disciplinary action was taken against applicant's license by another state applicant must submit a letter of explanation of the disciplinary action; and~~
 - ~~(13) Attestation by the applicant:~~
 - ~~(a) That s/he has not practiced in Nebraska prior to the application for a license; or~~
 - ~~(b) To the actual number of days practiced in Nebraska prior to the application for a license.~~
 - ~~(14) Sign and date the following statement: I hereby certify that the preceding information is correct to the best of my knowledge and I further certify that I am of good moral character;~~
 - ~~b. An official transcript from an accredited chiropractic program or institution showing the graduation date;~~
 - ~~c. Official documentation of the scores obtained on the National Board Examination I, II, III, IV, and Physiotherapy pursuant to 172 NAC 29-003.01A, item 2;~~
 - ~~d. The required licensure fee pursuant to 172 NAC 29-013, item 1; and~~
 - ~~e. A notarized copy of a birth certificate, marriage license, driver's license or other valid verification of age.~~

- ~~5.—The Department will act within 150 days upon all completed applications for licensure.~~
- ~~6.—When a license will expire within 180 days after its initial issuance date, the Department will collect \$32.25 and any other applicable fees, and the license will be valid until the next subsequent renewal date.~~
- ~~7.—Administrative Penalty/Other Action:—An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty under 172 NAC 29-014, or such other action as provided in the statutes and regulations governing the license.~~

~~29-003.01B Procedures For Licensure As A Chiropractor/Chiropractic Physician Based On A License In Another Jurisdiction:—An applicant who is licensed as a chiropractor/chiropractic physician in another jurisdiction must:~~

- ~~1.—Meet the requirements pursuant to 172 NAC 29-003.01A;~~
- ~~2.—Be currently licensed to practice chiropractic in another state or jurisdiction; and~~
- ~~3.—Submit to the Department:
 - ~~a.—A complete application on a form provided by the Department or on an alternate format which includes the following information:
 - ~~(1)—Complete name including middle or maiden name;~~
 - ~~(2)—Mailing address including street, P.O. Box, route, city, state, and zip code;~~
 - ~~(3)—Date of birth (month, day, and year);~~
 - ~~(4)—Place of birth (city, state);~~
 - ~~(5)—Telephone number including area code (optional);~~
 - ~~(6)—Social Security Number;~~
 - ~~(7)—Name of accredited chiropractic program or institution;~~
 - ~~(8)—Date of graduation from chiropractic program or institution;~~
 - ~~(9)—If convicted of a felony or misdemeanor applicant must submit the following:
 - ~~(a)—Official courts records relating to the conviction and disposition; and~~
 - ~~(b)—Letter of explanation of conviction;~~~~
 - ~~(10)—If applicant has been denied a license or the right to take an examination applicant must submit a letter of explanation;~~
 - ~~(11)—List state, license number, date license issued, and expiration date of license for each state where you have been or are currently licensed;~~
 - ~~(12)—If any disciplinary action was taken against applicant's license by another state applicant must submit a letter of explanation of the disciplinary action;~~
 - ~~(13)—Name of agency issuing initial license;~~
 - ~~(14)—Mailing address of agency including street, P.O. Box, route, city, state, and zip code;~~
 - ~~(15)—Date license was issued;~~
 - ~~(16)—Initial license number;~~
 - ~~(17)—Expiration date of license;~~
 - ~~(18)—Name of examination taken and a statement of the sections/parts/subjects covered by the examination;~~~~~~

- ~~(19) Name of state where applicant has been in the active and continuous practice of chiropractic for one year of the three years immediately preceding the date of application for Nebraska licensure;~~
 - ~~(20) Name of facility, address including city, state, and zip code, and the dates applicant was actively engaged in the practice of chiropractic; and~~
 - ~~(21) Attestation by the applicant:
 - ~~(a) That s/he has not practiced in Nebraska prior to the application for a license; or~~
 - ~~(b) To the actual number of days practiced in Nebraska prior to the application for a license.~~~~
 - ~~(22) Sign and date the following statement: I hereby certify that the preceding information is correct to the best of my knowledge and I further certify that I am of good moral character;~~
- ~~b. The following documentation from the licensing agency of the jurisdiction where the applicant was initially licensed:~~
- ~~(1) A certification on a form provided by the Department or on an alternate format which can be a form provided by the licensing agency in the other jurisdiction that the applicant is duly licensed, that his/her license was based on an examination and the scores the applicant received on the examination, that his/her license has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;~~
 - ~~(2) The nature of disciplinary actions, if any, taken against the applicant's license; and~~
 - ~~(3) A copy of the standards for licensure that were in effect at the time the applicant was originally licensed and the laws and rules relating thereto;~~
- ~~c. Documentation that the applicant has been actively engaged in the practice of chiropractic or in an accepted residency or graduate training program for at least one of the three years immediately preceding the date of the application for Nebraska licensure;~~
- ~~d. The required licensure fee pursuant to 172 NAC 29-013, item 2; and~~
- ~~e. A notarized copy of birth certificate, marriage license, driver's license or other valid verification of age.~~
- ~~4. The Board will review the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are comparable to those maintained in chiropractic in Nebraska and must recommend to the Department to issue or deny the license.~~
 - ~~5. The Department must act within 150 days upon all completed applications for licensure.~~
 - ~~6. When a license will expire within 180 days after its initial issuance date, the Department will collect \$32.25 and any other applicable fees, and the license will be valid until the next subsequent renewal date.~~

~~29-003.01C Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty pursuant to 172 NAC 29-014, or such other action as provided in the statutes and regulations governing the license.~~

29-003 INITIAL CREDENTIAL

29-003.01 Qualifications: To receive a credential to practice chiropractic, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Have graduated from a board approved accredited college of chiropractic as defined by 172 NAC 29-002 and accredited by the Council on Chiropractic Education - United States (CCE-US).
4. Examination and Other Proof of Competency: Pass an examination as set out below:
 - a. For applicants who apply no more than three years after passing the examination, Parts I, II, III, IV, and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part;
 - b. For applicants who have met the examination requirements in 172 NAC 29-003.01, item 4.a. who passed the examination more than three years prior to the time of application, and who are not practicing in another jurisdiction at the time of application, the National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the three years immediately preceding the application;
 - c. For applicants who are currently licensed and practicing in another jurisdiction, at the time of application:
 - (1) The examination set out in 172 NAC 29-003.01, item 4.a.;
or
 - (2) Parts I, II and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part; and
 - (3) The National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375;
 - d. For applicants currently licensed in another jurisdiction, but are not practicing at the time of application:
 - (1) The examination set out in 172 NAC 29-003.01, item 4.a.;
or
 - (2) Parts I, II and physiotherapy of the examination given by the

- National Board of Chiropractic Examiners with a scaled score of at least 375 in each part; and
- (3) The National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the two years immediately preceding the application; and
- (4) Completed 36 hours of continuing education pursuant to 172 NAC 29-006.02, within 24 months prior to making application.

29-003.02 Application: To apply for a credential to practice chiropractic, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number. Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- (9) The applicant must answer the following questions. If the answer is yes, the applicant must submit an explanation for each affirmative answer.
 - (a) Have you ever had any application for any professional license refused or denied by any licensing authority?
 - (b) Have you ever been disciplined by an employer that resulted in your inability to work?
 - (c) To your knowledge have any unresolved or pending complaints ever been filed against you with any chiropractic licensing agency, professional association, licensed hospital or clinic?
 - (d) Are you being treated or have you been treated, in the last five (5) years, for drug or alcohol addiction

- or participated in rehabilitation?
- (e) Have you ever been disciplined for practicing as a chiropractor when your physical or mental abilities were impaired by the use of controlled substances or other habit forming drugs, chemicals, or alcohol or by other causes?
 - (f) Have you ever been named as a defendant to a civil suit related to the practice of chiropractic that resulted in a settlement or judgment?
 - (g) Are you being treated or have you been treated in the last five (5) years, for any disease or condition that interfered with your ability to competently and safely perform the essential functions of a chiropractor, including any disease or condition generally regarded as chronic and/or infectious by the medical community?
 - (h) Has your license in any health care profession in another state been revoked, suspended, limited or disciplined in any manner?
 - (i) Have you ever been denied a license or the right to take an examination?
 - (j) Have you ever been licensed as a chiropractor in another state?
- b. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced chiropractic in Nebraska before submitting the application; or
 - (2) If s/he has practiced chiropractic in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 29-008 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. § 38-129:
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential

under the Uniform Credentialing Act.

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

- (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable;
or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
- (1) Name and date of degree awarded;
 - (2) Name of the accredited chiropractic school, college or university that awarded the degree; and
 - (3) Official transcript.
- f. Documentation of examination, including:
- (1) Name of examination;
 - (2) Date of examination; and
 - (3) Scores received; and
- g. Documentation that the applicant:
- (1) Requested that the examination scores be sent directly to the Department from the National Board of Chiropractic Examiners;
 - (2) Requested that the transcript from an accredited chiropractic program or institution showing the graduation date be sent directly to the Department; and
 - (3) Submitted any other documentation as requested by the

Board/Department.

- h. Documentation of Licensure in another Jurisdiction, including:
 - (1) Certification from the other jurisdiction(s) verifying licensure, including:
 - (a) Date of initial licensure
 - (b) The name of the examination on which licensure was based;
 - (c) The score attained on the examination;
 - (d) Date of the examination;
 - (e) Name of accredited program that the applicant presented a transcript from;
 - (f) The nature of disciplinary actions, if any, taken against the applicant's credential.
 - (2) The applicant must:
 - (a) State that s/he has practiced one of the three years preceding the application; and
 - (b) Provide the dates and locations of practice prior to the date of the application; or
 - i. Documentation of continuing competency if not practicing: Submit certificates of attendance verifying the 36 hours of continuing education pursuant to 172 NAC 29-006; or
 - j. Documentation of continuing competency if licensed in another jurisdiction but not practicing: Submit certificates of attendance verifying the 36 hours of continuing education pursuant to 172 NAC 29-006; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

29-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

29-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

29-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 29-008, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

29-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her

application or whose application is rejected by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

29-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 29-011 or such other action as provided in the statutes and regulations governing the credential.

29-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

29-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

29-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

29-004 PRACTICAL EXAMINATION ELIGIBILITY

29-004.01 To be eligible to take the National Board of Chiropractic Examiners Part IV practical examination, an applicant must have passed the NBCE Parts I, II, III, and Physiotherapy section given by the National Board of Chiropractic Examiners by the Part IV application deadline.

29-004.02 To apply to take the practical examination, an applicant must contact the National Board of Chiropractic Examiners, 901 54th Avenue, Greeley, Colorado, 80634, [800-964-6223](tel:800-964-6223), ~~1-(970)356-9100~~.

29-005 USE OF UNLICENSED PERSONNEL

29-005.01 The full utilization of chiropractors/chiropractic physicians may require auxiliary client/patient care services provided by persons carrying out tasks, treatments, or interventions to support the provision of chiropractic services as assigned or directed by a licensed chiropractor/chiropractic physician. The scope of assignment or direction may vary depending on the level of judgment required for the task, treatment, or intervention, the knowledge and skills of the unlicensed person, the method and frequency of supervision, and the client/patient's condition, ability and willingness to be involved in the management of his/her own care.

29-005.01A A licensed chiropractor/chiropractic physician retains accountability for the application of the chiropractic service when making the decision to assign or direct chiropractic tasks, treatments, or interventions and for the adequacy of client/patient care and outcomes related to the assignment or direction decision.

29-005.01B Although unlicensed persons may be used to complement chiropractors/chiropractic physicians in the provision of chiropractic care, these persons cannot be used as a substitute for a licensed chiropractor/chiropractic physician.

29-005.01C A licensed chiropractor/chiropractic physician must assign or direct unlicensed persons in a manner that allows for safe, accountable, and responsible provision of chiropractic care.

29-005.01D The detail and method of communication must be congruent with the experience competency of the unlicensed person and the frequency and method of supervision.

29-005.01E A licensed chiropractor/chiropractic physician may assign or direct unlicensed persons to perform selected tasks, treatments, or interventions that:

1. Reoccur frequently in the care of a client/patient or group of clients/patients;
2. Do not require the unlicensed person to exercise independent chiropractic judgment;
3. Do not require the performance of a complex task or tasks;
4. The results of the task, treatment, or intervention are predictable and the potential risk is minimal; and
5. Utilize a standard and unchanging procedure.

29-005.01F Tasks, treatments, or interventions that may not be assigned or directed include, but are not limited to:

1. Activities, including data collection, problem identification, and outcome evaluation that require independent chiropractic judgment;
2. Coordination and management of care including collaborating, consulting, and referring;
3. Tasks, treatments, or interventions that are complex pursuant to 172 NAC 29-002; or
4. Tasks, treatments, or interventions that require a license or other credential, unless the unlicensed individual has the required license or credential.

29-005.02 An unlicensed person as assigned or directed by a chiropractor/chiropractic physician may contribute to the assessment of the health status of individuals including interactions of individuals with family members or group members by:

1. Collecting basic subjective and objective data from observations and interviews. The data to be collected must be identified by the chiropractor/chiropractic physician; and
2. Reporting and recording the collected data.

29-005.03 Data collected by an unlicensed person as assigned or directed by a chiropractor/chiropractic physician may be used by the chiropractor/chiropractic physician as part of the establishment of a diagnosis for clients/patients, as part of development of a plan of care for clients/patients, or as part of evaluating responses to chiropractic treatments or interventions.

29-005.04 An unlicensed person as assigned or directed by a chiropractor/chiropractic physician may participate in the implementation of a plan of care for clients/patients by the performance of non-complex tasks, treatments, or interventions. This includes documenting and communicating completion of the tasks, treatments, or interventions and client/patient responses and seeking guidance and direction when appropriate.

29-005.05 A licensed chiropractor/chiropractic physician must communicate to the unlicensed person the conditions of any assignment or direction for which the chiropractor/chiropractic physician is responsible. Communication may be either written or oral or both and must include as appropriate:

1. The specific observations to be monitored, and the expected method of communication to report the observations;
2. The specific task, treatment, or intervention to be done and any client/patient specific instructions and/or limitations;
3. The expected result of the task, treatment, or intervention; and
4. The unexpected results or potential complications of the task, treatment, or intervention, including the method and time lines for communicating this to the chiropractor/chiropractic physician.

29-005.06 A licensed chiropractor/chiropractic physician may provide direction to unlicensed persons or assign tasks, treatments, or interventions to unlicensed persons through either direct or indirect supervision or a combination of both.

29-005.06A Indirect supervision can be provided through protocols and periodic inspection and evaluation in combination with plans of care.

29-005.06A1 Indirect supervision is appropriate when client/patient conditions are stable and/or predictable, and the client/patient is competent to make informed decisions and provide necessary information relative to the tasks, treatments, or interventions.

29-005.06A1a Protocols must:

1. Be written;
2. Identify any specific assessment data to be gathered and reported and the specific parameters for any task(s), treatment(s), or intervention(s) to be performed; and
3. Identify tasks, treatments, or interventions that may be provided. Tasks, treatments, or interventions may include, but are not limited to:
 - a. Monitoring client/patient's condition by the unlicensed person;
 - b. The direct or provision of chiropractic tasks, treatments, or interventions;
 - c. Referral to another licensed health care provider for service; and/or
 - d. Consultation with the chiropractor/chiropractic physician for specific direction.

29-005.06A2 Indirect supervision by the chiropractor/chiropractic physician must include:

1. An evaluation by the chiropractor/chiropractic physician to determine the adequacy of the protocols to serve the intended purpose; and
2. The availability of the chiropractor/chiropractic physician, or an appropriate substitute, to the unlicensed person by consultation and collaboration. An appropriate substitute may be another licensed practitioner in an emergency room, the client/patient's primary health care provider, or another specifically designated chiropractor/chiropractic physician.

29-005.06B Direct supervision is required when the client/patient is not competent to make informed decisions or cannot provide necessary information relative to the tasks, treatments, or interventions.

~~29-006 PROCEDURES FOR RENEWAL OF LICENSE: All initial licenses issued by the Department pursuant to the Act and these regulations expire on August 1 of each even-numbered year.~~

~~29-006.01 Renewal Process: Any licensee who wishes to renew his/her license must:~~

- ~~1. Meet continuing competency requirements pursuant to 172 NAC 17-008;~~
- ~~2. Pay the renewal fee pursuant to 172 NAC 17-013;~~
- ~~3. Respond to the following questions:~~
 - ~~a. Has your license/certificate/registration in any health care profession in another state been revoked, suspended, limited, or disciplined in any manner?~~
 - ~~b. Have you been convicted of a misdemeanor or a felony?
These questions related to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the expiration date; and~~
- ~~4. Cause to be submitted to the Department:~~
 - ~~a. The renewal notice;~~
 - ~~b. The renewal fee; and~~
 - ~~c. Attestation of completing 36 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency requirements. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;~~
 - ~~d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;~~
 - ~~e. If the licensee has been convicted of a felony or misdemeanor:~~
 - ~~(1) Official Court Record, which includes charges and disposition;~~
 - ~~(2) Copies of arrest records;~~
 - ~~(3) A letter from the licensee explaining the nature of the conviction;~~
 - ~~(4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - ~~(5) A letter from the probation officer addressing probationary~~

~~conditions and current status, if the applicant is currently on probation.~~

~~29-006.02 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's last known address as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.~~

~~29-006.02A The renewal notice will specify:~~

- ~~1. The name of the licensee;~~
- ~~2. The licensee's last known address of record;~~
- ~~3. The license number;~~
- ~~4. The expiration date of the license;~~
- ~~5. The renewal fee pursuant to 172 NAC 29-013;~~
- ~~6. The number of continuing education hours required for renewal; and~~
- ~~7. The option to place the license on either inactive or lapsed status.~~

~~29-006.02B The licensee must apply for renewal by submitting to the Department:~~

- ~~1. The renewal notice;~~
- ~~2. The renewal fee;~~
- ~~3. The licensee's Social Security Number;~~
- ~~4. Attestation of completing 36 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency requirements; and~~
- ~~5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).~~

~~29-006.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:~~

- ~~1. Request that his/her license be placed on inactive status by submitting to the Department:
 - ~~a. The renewal notice with a check in the box marked inactive; and~~
 - ~~b. The fee of \$25; or~~~~
- ~~2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - ~~a. The renewal notice with a check in the box marked lapsed.~~~~

~~29-006.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive or lapsed status.~~

~~29-006.03 Second Notice:—The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to the requirements of 172 NAC 29-006.01 that specify:~~

- ~~1. That the licensee failed to pay the renewal fee;~~

- ~~2.— That the license has expired;~~
- ~~3.— That the licensee is subject to an administrative penalty pursuant to 172 NAC 29-014 if s/he practices after the expiration date;~~
- ~~4.— That upon receipt of the renewal fee, together with additional late fee of \$25, and documentation of continuing competency requirements within that time, no order of revocation will be entered; and~~
- ~~5.— That upon failure to receive \$25 in addition to the regular renewal fee and documentation of continuing competency requirements, the license will be revoked pursuant to 172 NAC 29-007.~~

~~29-006.04 The licensee must apply for renewal by submitting to the Department:~~

- ~~1.— The renewal notice;~~
- ~~2.— The renewal fee and the additional 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 36 hours of continuing education earned within 24 months of the date of expiration or waiver of continuing competency requirements; and~~
- ~~6.— Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).~~

~~29-006.05 If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:~~

- ~~1. Request that his/her license be placed on inactive status by submitting to the Department:
 - ~~a.— The renewal notice with a check in the box marked inactive; and~~
 - ~~b.— The fee of \$25; or~~~~
- ~~2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - ~~a.— The renewal notice with a check in the box marked lapsed.~~~~

~~29-006.06 The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.~~

~~29-006.07 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 fee of \$25 the Department will automatically revoke the license without further notice or hearing and will make proper record of the revocation.~~

~~29-006.08 Failure to meet the continuing education requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of license, unless a waiver of continuing competency requirements is granted or the license is placed on inactive or lapsed status. When~~

~~any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and/or to pay an additional late fee of \$25, the Department will revoke the license after notice and opportunity for hearing. Hearings held before the Department will be conducted pursuant to the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.~~

~~29-006.09 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 29-006.07 and 006.08 will not apply.~~

~~29-006.10 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, the Rules of Practice and Procedure for the Department.~~

~~29-006.11 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty under 172 NAC 29-014, or such other action as provided in the statutes and regulations governing the credential.~~

29-0068 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 29-007.03 and 172 NAC 29-007.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

29-0068.01 General Requirements for Licensee: On or before August 1, 1986 and of each even-numbered year thereafter, each Nebraska-licensed chiropractor/chiropractic physician in a who has an active license practice within the State of Nebraska must:

1. Complete 36 hours of acceptable continuing education during the preceding 24 month period as specified below. The 36 hours must include:
 - ~~— No more hours than the total number of acceptable hours offered in Nebraska will be required during this period. An individual will not receive more than eight hours continuing education credit for any one day of attendance. The Board will at least 180 days before August 1, 2002, and August 1, of each even-numbered year thereafter, notify all Nebraska-licensed chiropractor/chiropractic physicians in active practice, of the categories and number of hours in each category each chiropractor/chiropractic physician must obtain from those listed in 172 NAC 29-008.01, item 2.b., 1 through 9, but not exceeding a total of four hours. Four of the remaining 32 continuing education hours must be obtained from those listed in 172 NAC 29-008.01, item 2.a., and the remaining 28 hours may be obtained from acceptable continuing education programs in these subject areas or other subject areas:~~
2. The 36 hours must include:
 - a. Four hours related to technical skills in one or a combination of the following categories:
 - (1) Continuing education designed to enhance the practitioner's technical and clinical skill related to x-ray physics, quality control, x-ray production, and interpretation of diagnostic imaging; and/or

- (2) Continuing education designed to enhance the practitioner's skill in utilizing chiropractic adjustive technique; and
- b. Four hours related to practice issues in one or a combination of the following categories as determined by the Board:
 - (1) Continuing education pertaining to HIV/AIDS, infectious diseases and related conditions as they relate to chiropractic;
 - (2) Continuing education designed to enhance the practitioner's awareness of gender sensitivity and sexual harassment issues. These programs are commonly referred to as boundary training;
 - (3) Continuing education related to the chiropractic scope of practice in the State of Nebraska. The programs must include adopted practice guidelines and practice law specific to Nebraska only;
 - (4) Continuing education designed to enhance the practitioner's skill related to ordering laboratory tests and interpreting information from laboratory tests;
 - (5) Continuing education designed to enhance the practitioner's skill in performing physical, neurological, and orthopedic examination procedures as they relate to chiropractic practice;
 - (6) Continuing education related to prevention of fraud, system set-ups, coding, quality control, and standards of practice;
 - (7) Continuing education pertaining to the provision of rehabilitative care as it relates to chiropractic practice;
 - (8) Continuing education related to practice ethics as recognized by state or national associations; and
 - (9) Continuing education related to the use of unlicensed personnel.
- 32. Be responsible for maintaining until the next renewal period:
 - a. Documentation of attendance at, or participation in, continuing education programs/activities. Documentation must include:
 - (1) Signed certificate; and
 - (2) Course brochure or course outline; and/or
 - b. If the licensee is presenting a program, documentation of the continuing education program. Documentation must include:
 - (1) Course outline; and
 - (2) Course brochure; or
 - (3) Statement of instructor's qualifications to teach the course, unless the qualifications are included in the brochure; and
- ~~a. Maintaining in his/her personal file documentation of attendance or participation and course outline to include objectives or presentation of approved continuing education programs; and~~
- ~~b. A licensee must attend the complete continuing education offering in order to report it for credit. Partial credit may be awarded by the provider of the continuing education event.~~
- 43. If applicable, submit an application for waiver of the education requirement pursuant to 172 NAC ~~29-008.07~~ 29-007.03 and 29-007.04.

29-006.01A An individual will not receive more than eight hours of continuing education credit for any one day of attendance.

29-006.01B The Board will notify all Nebraska-licensed chiropractors/chiropractic physicians, in active practice by the first working day after August 1 of each even-numbered year, of the categories and number of hours in each category that must be obtained from those items listed in 172 NAC 29-006.01, item 2.b. but not exceeding a total of four hours.

29-006.02 Acceptable Continuing Education: The Board does not pre-approve continuing education programs but will accept as continuing education for renewal, continuing education programs specified in 172 NAC 29-006.02B. The board retains final authority for acceptance of any educational program/activity submitted by the licensee to meet the continuing competency requirements. In order for a continuing education activity to be accepted for renewal or reinstatement of a license, the continuing education activity must relate to the practice of chiropractic and must be open to all licensees.

29-006.02A A continuing education activity, will be acceptable when:

1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the licensee;
 2. The objectives of the continuing education activity relate to the practice of chiropractic;
 3. It has a date, location, course title, number of contact hours, and signed certificate of attendance; and is open to all licensees;
 4. It is no more than eight hours in length per day;
 5. The program is five hours or longer in duration in any one day, at least an hour must be included in the program for a meal break. All programs must be monitored to assure attendance.
 6. The provider for mandatory programs on subject areas pursuant to 172 NAC 29-006.01, item 2 (a-b) for purposes of meeting the mandatory continuing education hours requirement must have provided at least one continuing education program relating to the practice of chiropractic each year for the previous three years; and
 7. The instructor has specialized experience or training to meet the objectives of the course; ~~a-~~ The presenter of any course on interpreting diagnostic imaging must be:
 - (1)a. A Diplomate of the American Chiropractic Board of Radiology or its equivalent; or
 - (2)b. Have five year's experience in teaching diagnostic imaging.
- ~~5. It is no more than eight hours in length;~~

629-006.002a(1). One hour of credit will be awarded for each hour of attendance. Partial credit may be awarded to the licensee for the hours attended. Only the portion of the meeting which meets the definition of continuing education may be used for credit. Partial credit may be awarded to the licensee for the hours attended. Credit will not be awarded for breaks or meals;

- ~~7. If the program is five hours or longer in duration in any one day, at least an hour must be included in the program for a meal break;~~

- ~~8. No provider will provide mandatory programs on subject area pursuant to 172 NAC 29-0068.01, item 2 (a-b) for purposes of meeting the mandatory continuing education hours requirement unless the provider has provided at least one continuing education program relating to the practice of chiropractic each year for the previous three years; and~~
- ~~9. All programs must be monitored to assure attendance.~~

~~29-0068.02B Continuing Education Program/Activity: The Board does not pre-approve continuing education programs but will accept as continuing education for renewal of a license or reinstatement of a license the following continuing education activities: The following is a list of acceptable continuing education programs/activities and the required documentation specified for each.~~

1. Programs at State and National Association meetings (for example, e.g., a meeting of the Nebraska Chiropractic Physicians Association or other state chiropractic associations and/or the American Chiropractic Association or the International Chiropractic Association (ICA) or similar organizations). A licensee's dDocumentation must include:
 - a. a certificate of attendance; and
 - b. aThe program outline and/or objectives.~~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 used for credit.~~
2. Workshops, seminars, and/or conferences where the content of the continuing education activity relates to the practice of chiropractic. A licensee's dDocumentation must include:
 - a. a certificate of attendance; and
 - b. aThe program outline and/or objectives.
3. Formal education courses given at accredited institutions of higher education which relate directly to the practice of chiropractic. No more than 15 hours of continuing education credit will be awarded by the Board for each semester hour earned. Documentation must include:
 - a. An official transcript;
 - b. The program outline and/or objectives; and
 - c. Documentation of successful completion of the course.
4. Programs approved by Providers of Approved Continuing Education (PACE) sponsored by the Federation of Chiropractic Licensing Boards (FCLB); Documentation must include:
 - a. A certificate of attendance; and
 - b. The program outline and/or objectives.
5. Formal self study where the self study activity content relates to the practice of chiropractic, (for example, e.g. videotapes, internet courses, CDs and correspondence courses). Licensees may complete a maximum of 6 hours of continuing education by self-study each 24 month renewal period. The self-study program must have a testing mechanism scored by the provider of the self study activity.

The mandatory continuing education hours pursuant to 172 NAC 29-0068.01, item 2 (a-b) may not be obtained by completing formal self study activities. Documentation must include:

- a. The program outline and/or objectives; and
- b. Certificate of completion.

6. Subject matter acceptable for continuing education credit includes, but is not limited to i.e. acupuncture, philosophy, nutrition.

29-0068.03 A licensee who is a presenter of an ~~an approved~~ continuing education program may receive credit for the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program.

29-0068.04 Examples of nonacceptable subject matter include, but are not limited to practice promotion.

~~29-008.05 Waiver Of Continuing Competency Requirements: 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.~~

~~29-008-05A The circumstances must include situations in which the licensee:~~

- ~~1. Holds a Nebraska license but is not practicing chiropractic in Nebraska; or~~
- ~~2. Has been in the service of the regular armed forces of the United States during any part of the 24 months immediately preceding the license renewal date; or~~
- ~~3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or~~
- ~~4. Has been first licensed within 24 months immediately preceding the renewal date.~~

~~29-008.05B Application For Waiver Of Continuing Competency: Any licensee who seeks waiver of continuing competency requirements, in part or in total, for any two year licensing period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing competency requirements in part or in total for any two year period. The licensee must submit:~~

- ~~1. A signed complete application for waiver of continuing competency requirements on a form sent by the Department with the renewal notice pursuant to 172 NAC 29-006.02 or 006.03. Only complete applications will be considered, and the application must be received by the Department on or before August 1 of the year the license is due to be renewed;~~

- ~~2. Documentation of the circumstances beyond the licensee's control that prevented completion of continuing competency requirements pursuant to 172 NAC 29-008.05A must include the following:~~
- ~~a. If the licensee holds a Nebraska license but is not practicing in Nebraska, s/he must make an appropriate statement in the application;~~
 - ~~b. If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application and submit official documentation stating the dates of the service;~~
 - ~~c. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing competency requirements during the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in 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 obtain continuing competency requirements during that period; and~~
 - ~~d. If the licensee was first licensed within the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application and list the date said license was issued.~~

~~29-008.05C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of the requirements.~~

~~29-008.05C1 When the Department determines to deny an application for waiver of continuing competency requirements, it must 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.~~

~~29-008.05C1a The applicant has 30 days from the date of mailing of the denial notice to make a written request to the Department for a hearing. The hearing must be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act.~~

~~29-008.05C1b The Department will issue a final order setting forth the results of the hearing.~~

~~29-008.05C2 When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30 days of receipt of the application.~~

~~29-008.06 Audit of Continuing Competency Requirements: The Board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing competency requirements. A minimum of 5% and a maximum of 20% of licensees will be randomly selected for audit. Each licensee must be responsible for maintaining in his/ her personal file documentation of attendance received from continuing education programs. Licensees selected for audit are required to produce satisfactory documentation of his/her attendance at those continuing education programs attested to on his/her renewal application.~~

~~29-008.06A The Department will send to each licensee selected for audit a notice of audit.~~

~~29-008.06B When selected for audit, the licensee must provide satisfactory documentation of attendance at a continuing education program. Within 30 days of the notice of audit, extension of time may be granted at the discretion of the Department.~~

~~29-008.06C Failure to provide satisfactory documentation may result in non-renewal of the license.~~

~~29-008.06D The licensee selected for audit must submit to the Department validation of meeting the requirements for continuing education as follows:~~

- ~~1. Copies of certificates:
 - ~~a. Fee receipts will not be accepted for validation of attendance;~~
 - ~~b. Letters documenting attendance from providers; or~~
 - ~~c. Copies of transcripts from educational institutions.~~~~

~~29-008.06E Validating records will not be returned.~~

~~29-008.06F Failure to notify the Department of a current mailing address will not absolve the licensee from the audit requirement.~~

~~29-007 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department will revoke a license within 30 days of its expiration when the licensee fails to meet the renewal requirements.~~

~~29-007.01 Revocation For Non-payment Of Renewal Fee~~

~~29-007.01A When a licensee fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay an additional fee of \$25 and fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department will automatically revoke the license without further notice or hearing and will make proper record of the revocation.~~

~~29-007.01A1 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.~~

~~29-007.02 Revocation For Failure To Meet Continuing Competency Requirements~~

~~29-007.02A~~ When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirements for licensure renewal, the Department will revoke his/her license after notice and opportunity for a hearing.

~~29-007.02A1~~ The revocation notice for failure to meet continuing competency requirements must specify:

- ~~1. That the licensee was given first and second notice of failure to meet the continuing education 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 30 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.~~

29-007 RENEWAL: An individual who wants to renew his/her chiropractic credential must request renewal as specified in 172 NAC 29-007.02. All chiropractic credentials issued by the Department will expire on August 1 of each even-numbered year.

29-007.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

29-007.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);

- including charges and disposition;
- d. Denial: If the applicant was denied a credential or denied the right to take a credentialing examination, an explanation of the basis for the denial;
- e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
- (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the court record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and
5. The renewal fee according to 172 NAC 2.

29-007.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 29-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

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

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

29-007.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

29-007.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. The circumstances must include situations in which the licensee;

1. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or
2. Any other circumstances beyond the licensee's control that prevented completion of the continuing competency requirements.

29-007.05 Audit of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

29-007.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

29-007.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

29-007.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes those documents outlined in 172 NAC 29-006.01, item 2. Examples are:

1. Copies of certificates; and
2. Course outline or course objectives; or
3. Letters documenting attendance from providers;
4. Copies of transcripts from educational institutions; or
5. Other documentation as required by 172 NAC 29-006.02B.

29-007.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

29-007.05E The Department will notify the credential holder upon satisfactory completion of the audit.

29-007.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

29-007.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of

mailing.

29-007.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

29-007.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

29-007.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

29-007.08 Expiration of a Credential: A credential expires if a credential holder fails to:

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

29-007.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

29-007.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

29-007.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice chiropractic terminates.

29-007.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 29-011 or such other action as provided in the statutes and regulations governing the credential.

29-007.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of chiropractic after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 29-010.

29-007.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not

required.

29-007.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

29-007.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of chiropractic, but may represent him/herself as having an inactive credential.

29-007.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 29-010.

~~29-009 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE~~

~~29-009.01 The Department may deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 29-003 or is found to be in violation of any of the provisions of 172 NAC 29-009.03.~~

~~29-009.02 The Department may refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 29-006, 172 NAC 29-008.08 or 172 NAC 29-009.03.~~

~~29-009.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:~~

- ~~1. Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license or certificate;~~
- ~~2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;~~
- ~~3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01;~~
- ~~4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession;~~
- ~~5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;~~

- ~~6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional stability;~~
- ~~7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;~~
- ~~8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license by a person not licensed to do so;~~
- ~~9. Having had his/her license or certificate denied, refused renewal, limited, suspended, or revoked or having had the license or certificate disciplined in any other manner pursuant to Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice chiropractic based upon acts by the applicant, licensee, or certificate holder similar to acts described in 172 NAC 29-009. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or the taking of other disciplinary measures against it by another state or jurisdiction must be conclusive evidence.~~
- ~~10. Unprofessional conduct, which term includes all acts pursuant to Neb. Rev. Stat. § 71-148 and the other acts which include but are not limited to:
 - ~~a. Competence: A chiropractor/chiropractic physician must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of chiropractic includes but is not limited to:
 - ~~(1) Committing any act which endangers patient safety or welfare;~~
 - ~~(2) Encouraging or promoting chiropractic by untrained or unqualified persons; and~~
 - ~~(3) Failure or departure from the standards of acceptable and prevailing practice in chiropractic.~~~~
 - ~~b. Confidentiality: A chiropractor/chiropractic physician must hold in confidence information obtained from a patient, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law. Failure to do so constitutes unprofessional conduct.~~
 - ~~c. Professional Relationships: A chiropractor/chiropractic physician must safeguard the welfare of patients and maintain appropriate professional relationships with patients. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - ~~(1) Improper use of another person for one's own advantage;~~
 - ~~(2) Failure to decline to carry out chiropractic services that have been requested when the services are known to be contraindicated or unjustified;~~
 - ~~(3) Failure to decline to carry out procedures that have been requested when the services are know to be outside of the chiropractor's/chiropractic physician's scope of practice;~~~~~~

- ~~(4) Verbally or physically abusing patients;~~
 - ~~(5) Falsification or unauthorized destruction of patient records;~~
 - ~~(6) Attempting to provide diagnostic or treatment information to patient(s) that is beyond the chiropractor's/chiropractic physician's level of training and expertise;~~
 - ~~(7) Delegating to other personnel those patient related services when the clinical skills and expertise of a chiropractor/chiropractic physician is required;~~
 - ~~(8) Over or under utilization of laboratory and x-ray procedures, and the devices or nutritional products that are in the best interest of the patient;~~
 - ~~(9) Failure to assure that the patient possesses enough information to enable intelligent choices in regard to proposed chiropractic treatment;~~
 - ~~(10) Failure to terminate a professional relationship when it becomes clear that the patient is not benefiting from further care or treatment; and~~
 - ~~(11) Failure to consult and seek the talents of other health care professionals when the consultation would benefit the patient or when the patient expressed a desire for the consultation.~~
- d. ~~Sexual Harassment: A chiropractor/chiropractic physician must not under any circumstances engage in sexual harassment of patients or co-workers. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:~~
- ~~(1) The provision or denial of chiropractic care to a patient; and~~
 - ~~(2) The provision or denial of employment or employment advances to a co-worker.~~
- e. Advertising, Publicity and Solicitation
- ~~(1) A chiropractor/chiropractic physician must not make a false or misleading communication about the chiropractor/chiropractic physician or the chiropractor's/chiropractic physician's services. A communication is false or misleading if:~~
 - ~~(a) The chiropractor/chiropractic physician charges a fee for any chiropractic service conducted within 24 hours after performing chiropractic service that was advertised as being free;~~
 - ~~(b) The chiropractor/chiropractic physician obtains any fee for professional services by fraud, deceit, or misrepresentation;~~
 - ~~(c) The chiropractor/chiropractic physician bills an insurance company or third party payee for a service that has been offered through an advertisement to a prospective patient as free without explaining to the prospective patient which services are billable and which are free;~~
 - ~~(d) It contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;~~
 - ~~(e) It is likely to create an unjustified expectation about the results the chiropractor/chiropractic physician can achieve, or states or implies that the chiropractor/chiropractic physician can achieve~~

- ~~results by means that violate these regulations or the Uniform Licensing Law;~~
- ~~(f) It compares the chiropractor's/chiropractic physician's services with other chiropractor's/chiropractic physician's services, unless the comparison can be factually substantiated.~~
- ~~(2) Subject to the requirements of these regulations a chiropractor/chiropractic physician may advertise services through public media, such as a telephone directory, newspaper, magazine or other periodical, radio or television, or through written communication not involving personal contact. A copy or recording of an advertisement or written communication will be kept for one year after its dissemination along with a record of when and where it was used.~~
- ~~(3) A chiropractor/chiropractic physician cannot enter into an agreement for, charge, or collect a fee for professional employment obtained in violation of this rule.~~
- ~~(4) A chiropractor/chiropractic physician must not accept professional employment when s/he knows or reasonably should know that the person who seeks his/her services does so as a result of conduct by any person prohibited pursuant to 179 NAC 29-009.03, item 10c.~~
- ~~(5) Any written communication from a chiropractor/chiropractic physician or his/her agent that is prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member must disclose how the chiropractor/chiropractic physician or his/her agent obtained the information prompting the communication. The disclosure required by this regulation must be specific enough to help the recipient understand the extent of the chiropractor's/chiropractic physician's knowledge regarding the recipient's particular situation.~~
- ~~(6) A chiropractor/chiropractic physician cannot compensate or give anything of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item.~~
- ~~(7) A chiropractor/chiropractic physician or any person designated, contracted, or paid by a chiropractor/chiropractic physician cannot solicit professional employment as a chiropractor/chiropractic physician for himself/herself, his/her partner or associate, either through direct contact or through a written communication to, a potential patient, if:~~
- ~~(a) The chiropractor/chiropractic physician knows or reasonably should know that the physical, emotional, or mental state of the person is such that the person could not exercise reasonable judgment in employing a chiropractor/chiropractic physician;~~
- ~~(b) The person has made known to the chiropractic/chiropractic physician or his/her agent a desire not to receive communications from the chiropractor/chiropractic physician; or~~

- ~~(c) The communication involves coercion, duress, fraud, misrepresentation, overreaching, harassment, intimidation, or undue influence.~~
- ~~(8) A chiropractor/chiropractic physician who has given in-person unasked for advice to a potential patient that s/he should obtain chiropractic services or other health care services cannot accept employment resulting from that advice, except:
 - ~~(a) If the potential patient is a close friend, relative, former patient, or one whom the chiropractor/chiropractic physician reasonably believes to be a patient; or~~
 - ~~(b) Under auspices of a public or charitable chiropractic services organization.~~~~
- ~~(9) If a chiropractor/chiropractic physician advertises a fee for a service, the chiropractor/chiropractic physician must render that service for no more than the fee advertised.~~
- ~~(10) Unless otherwise specified, if a chiropractor/chiropractic physician advertises fee information, the chiropractor/chiropractic physician is bound by any representation made therein for a period of not less than 30 days after such advertisement.~~
- ~~(11) On the front of each envelope in which an advertisement of a chiropractor/chiropractic physician is mailed or delivered on or the front of each post card, if the advertisement is printed on a post card, must be the words: "This is an advertisement." These words must be printed in type size at least as large as the print of the address and must be located in a conspicuous place on the envelope or card.~~
- ~~(12) An advertisement or written communication of a chiropractor/chiropractic physician seeking professional employment by a specific potential patient cannot reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the potential patient's medical problem.~~
- ~~f. When using the term chiropractic physician or any other lawfully recognized terminology on a sign, announcement, stationery, or advertisement, it is unprofessional conduct to fail to also place on such sign, announcement, stationery or advertisement the term chiropractor;~~
- ~~g. Violating an assurance of compliance entered into pursuant to Neb. Rev. Stat. § 71-171.02;~~
- ~~h. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;~~
- ~~i. Failure to safeguard the patient's dignity and right to privacy;~~

- ~~j. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;~~
- ~~k. Practicing chiropractic in this state without a current Nebraska license; and~~
- ~~l. Failure to comply with a patient's authorization to provide records pursuant to Neb. Rev. Stat. §§ 71-8401 to 71-8407.~~
- ~~m. Failure to affix the written or oral words "solicitation" or "advertisement" on a statement that attempts to procure patients. These words must be printed in type size at least as large as the print of the statement.~~
- ~~11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning the licensee's professional excellence or abilities, in advertisements;~~
- ~~12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;~~
- ~~13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;~~
- ~~14. Willful or repeated violations of the Uniform Licensing Law or these rules and regulations or the rules and regulations of the Department relating to the licensee's, certificate holder's, or registrant's profession;~~
- ~~15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee is not licensed to practice;~~
- ~~16. Practicing the profession of chiropractic 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 the particular profession or occupation;~~
- ~~18. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination requested by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed;~~
- ~~19. Failure to file a report required by the mandatory reporting law pursuant to Neb. Rev. Stat. § 71-168; or~~
- ~~20. Failure to comply with Neb. Rev. Stat. §§ 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates.~~

~~29-009.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend the license of any licensee, the applicant or licensee must be given an opportunity for a hearing before the Department and must have the right to present evidence on his/her own behalf. Hearings before the Department will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure of the Department.~~

29-008 DISCIPLINARY ACTIONS

29-008.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 29-008.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any

- other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
 16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
 17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
 18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
 19. Failure to maintain the requirements necessary to obtain a credential;
 20. Violation of an order issued by the Department;
 21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
 22. Failure to pay an administrative penalty; and/or
 23. Unprofessional conduct as defined in 172 NAC 29-008.02.

29-008.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic; or
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Knowingly disclosing confidential information except as otherwise permitted by law;
8. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
9. Failure to keep and maintain adequate records of treatment or service;

10. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
11. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
12. Competence: Providing services for which the chiropractor/chiropractic physician is not trained or experienced.
13. Confidentiality: Failure to hold in confidence information obtained from a patient, except where otherwise required by law.
 14. Professional Relationships: Failure to safeguard the welfare of patients and maintain appropriate professional relationships with patients and other health care practitioners. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - a. Improper use of another person for one's own advantage;
 - b. Failure to decline to carry out chiropractic services that have been requested when the services are known to be contraindicated or unjustified;
 - c. Failure to decline to carry out procedures that have been requested when the services are known to be outside of the chiropractor's/chiropractic physician's scope of practice;
 - d. Verbally or physically abusing patients;
 - e. Falsification or unauthorized destruction of patient records;
 - f. Delegating to other personnel those patient related services when the clinical skills and expertise of a chiropractor/chiropractic physician is required;
 - g. Over-utilization of laboratory and x-ray procedures, and the devices or nutritional products that are in the best interest of the patient;
 - h. Failure to assure that the patient possesses enough information to enable intelligent choices in regard to proposed chiropractic treatment;
 - i. Failure to terminate a professional relationship when it becomes clear that the patient is not benefiting from further care or treatment; and
 - j. Failure to consult and seek the talents of other health care professionals when the consultation would benefit the patient or when the patient expressed a desire for the consultation.
15. Sexual Harassment: Engaging in sexual misconduct which is defined as sexual harassment of clients. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
 - a. Providing or denying service to a client;
 - b. Creating an intimidating, hostile, or offensive environment for the client; or
 - c. Providing favorable reports for sexual favors.
16. Sexual Intimacy: Engaging in sexual intimacy with a patient for six months preceding the provision of professional services, during the provision of professional services, or for six month following the termination of professional services. Sexual intimacy is any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning and may or may not include sexual contact.

17. Advertising, Publicity and Solicitation

- a. A chiropractor/chiropractic physician must not make a false or misleading communication about the chiropractor/chiropractic physician or the chiropractor's/chiropractic physician's services. A communication is false or misleading if:
- (1) The chiropractor/chiropractic physician charges a fee for any chiropractic service conducted within 24 hours after performing a chiropractic service that was advertised as being free;
 - (2) The chiropractor/chiropractic physician bills an insurance company or third-party payee for a service that has been offered through an advertisement to a prospective patient as free without explaining to the prospective patient which services are billable and which are free;
 - (3) It contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
 - (4) It is likely to create an unjustified expectation about the results the chiropractor/chiropractic physician can achieve, or states or implies that the chiropractor/chiropractic physician can achieve results by means that violate these regulations or the Uniform Credentialing Act;
 - (5) It compares the chiropractor's/chiropractic physician's services with other chiropractor's/chiropractic physician's services, unless the comparison can be factually substantiated.
- b. Subject to the requirements of these regulations a chiropractor/chiropractic physician may advertise services through public media, such as a telephone directory, newspaper, magazine or other periodical, radio or television, or through written communication. A copy or recording of an advertisement or written communication will be kept for one year after its dissemination along with a record of when and where it was used.
- c. A chiropractor/chiropractic physician or any person designated, contracted, or paid by a chiropractor/chiropractic physician must not solicit professional employment as a chiropractor/chiropractic physician for him/herself, his/her partner or his/her associate, from any person when the professional employment concerns the evaluation or treatment of any injury or potential injury that relates to an accident or disaster involving the person to whom the solicitation is directed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the solicitation. This prohibition does not apply to any contact with any person who has sought his/her advice regarding employment of a chiropractor/chiropractic physician or other health care provider. The term "solicit" includes contact in person or by telephone, directed to a specific recipient.
- d. A chiropractor/chiropractic physician cannot enter into an agreement to charge or collect a fee for professional employment obtained in violation of 172 NAC 29-008.02, item 17;

- e. A chiropractor/chiropractic physician must not accept professional employment when s/he knows or reasonably should know that the person who seeks his/her services does so as a result of conduct by any person prohibited pursuant to 172 NAC 29-008.02, item 17;
- f. Any written communication from a chiropractor/chiropractic physician or his/her agent that is prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member must disclose how the chiropractor/chiropractic physician or his/her agent obtained the information prompting the communication. The disclosure required by this regulation must be specific enough to help the recipient understand the extent of the chiropractor's/chiropractic physician's knowledge regarding the recipient's particular situation;
- g. A chiropractor/chiropractic physician cannot compensate or give anything of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item;
- h. A chiropractor/chiropractic physician or any person designated, contracted, or paid by a chiropractor/chiropractic physician cannot solicit professional employment as a chiropractor/chiropractic physician for himself/herself, his/her partner or associate, either through direct contact or through a written communication to, a potential patient, if:
 - (1) The chiropractor/chiropractic physician knows or reasonably should know that the physical, emotional, or mental state of the person is such that the person could not exercise reasonable judgment in employing a chiropractor/chiropractic physician;
 - (2) The person has made known to the chiropractic/chiropractic physician or his/her agent a desire not to receive communications from the chiropractor/chiropractic physician;
or
 - (3) The communication involves coercion, duress, fraud, misrepresentation, overreaching, harassment, intimidation, or undue influence.
- j. If a chiropractor/chiropractic physician advertises a fee for a service, the chiropractor/chiropractic physician must render that service for no more than the fee advertised;
- k. Unless otherwise specified, if a chiropractor/chiropractic physician advertises fee information, the chiropractor/chiropractic physician is bound by any representation made therein for a period of not less than 30 days after such advertisement;
- l. On the front of each envelope in which an advertisement of a chiropractor/chiropractic physician is mailed or delivered on or the front of each post card, if the advertisement is printed on a post card, must be the words: "This is an advertisement." These words must be printed in type size at least as large as the print of the address and must be located in a conspicuous place on the envelope or card;

- m. An advertisement or written communication of a chiropractor/chiropractic physician seeking professional employment by a specific potential patient cannot reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the potential patient's medical problem;
18. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
 19. Failure to safeguard the patient's dignity and right to privacy;
 20. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
 21. Practicing chiropractic in this state without a current Nebraska license; and
 22. Failure to comply with a patient's authorization to provide records pursuant to Neb. Rev. Stat. §§ 71-8401 to 71-8407;
 23. Practicing the profession of chiropractic while his/her license is suspended or in contravention of any limitation placed upon his/her license;
 24. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination requested by the Board, pursuant to Neb. Rev. Stat. §§ 38-1,110 to 38-1,113 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed;
 25. Failure to make credential available upon request: Every person credentialed under the Uniform Credentialing Act must make the person's current credential available upon request. All signs, announcements, stationery, and advertisements of persons credentialed under the act shall identify the profession or business for which the credential is held;
 26. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Department or its investigator with requested information or requested documents; and/or
 27. Committing any act which endangers patient safety or welfare.

29-008.03 Temporary Suspension or Limitation

29-008.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 29-008.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

29-008.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

29-008.03C A temporary suspension or temporary limitation of a credential under 172 NAC 29-008.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

29-008.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

29-008.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

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

29-008.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 29-008.05, the Director may, in addition to any other terms and conditions of that discipline:

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

29-009 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;

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

29-009.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

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

29-009.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

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

29-009.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

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

29-009.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

29-009.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

29-009.06 Reinstatement following voluntary surrender is set out in 172 NAC 29-010.

~~29-010 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.~~

~~29-010.01 Eligibility~~

~~29-010.01A An individual whose credential has been previously:~~

- ~~1. Placed on lapsed status;~~
- ~~2. Placed on inactive status;~~
- ~~3. Revoked for failure to meet the renewal requirements;~~
- ~~4. Suspended or limited for disciplinary reasons; or~~
- ~~5. Voluntarily surrendered or voluntarily limited for an indefinite period of time; may request, at any time, to be re-credentialed and re-authorized to practice under the credential, pursuant to these regulations.~~

~~29-010.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.~~

~~29-010.01C An individual who practices prior to re-credentialing, is subject to:~~

- ~~1. Assessment of an Administrative Penalty pursuant to 172 NAC 29-014; and~~
- ~~2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.~~

~~29-010.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 29-003.~~

~~29-010.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 29-014;~~
- ~~2. Initiate disciplinary action against the lapsed credential;~~
- ~~3. Deny the request to restore the credential from lapsed to active status; or~~

4. ~~Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~29-010.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:~~

1. ~~Initiate disciplinary action against the lapsed credential;~~
2. ~~Deny the request to restore the credential from lapsed to active status;~~
~~or~~
3. ~~Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~29-010.02C The Department will act within 150 days on all completed applications.~~

~~29-010.02D 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 29-010.02A and 29-010.02B are final.~~

~~29-010.03 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.~~

~~29-010.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:~~

1. ~~A written application which contains the following information about the applicant:~~
 - a. ~~Name;~~
 - b. ~~Address;~~
 - c. ~~Social Security Number; and~~
 - d. ~~If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - e. ~~A statement describing all:~~
 - (1) ~~Felony or misdemeanor convictions during the time period since the credential was active;~~
 - (a) ~~If the applicant has been convicted of a felony or misdemeanor, provide copies of: _____~~
~~[1] Official Court Record, which includes charges~~

- and disposition;
- ~~{2}— Arrest records;~~
- ~~{3}— A letter from the applicant explaining the nature of the conviction;~~
- ~~{4}— All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
- ~~{5}— A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.~~
- ~~(b) — Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;~~
 - ~~{1} — If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
- ~~(c) — Disciplinary charges pending against any professional credential held by the applicant.~~
- ~~f. — Attestation that the continuing competency requirements for renewal have been met;~~
- ~~2. — The renewal fee and any other applicable fees.~~
- ~~3. — Attestation by applicant:~~
 - ~~a. — That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. — To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.~~

~~29-010.04A — If an applicant has practiced while his/her credential was inactive, the Department may:~~

- ~~1. — Assess an Administrative Penalty pursuant to 172 NAC 29-014;~~
- ~~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.~~

~~29-010.04B — If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:~~

- ~~1. — Initiate disciplinary action against the credential;~~
- ~~2. — Deny the request to move the credential from inactive to active status; or~~
- ~~3. — Move the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~29-010.04C — In either event pursuant to 29-010.04A or 29-010.04B, a notice and the opportunity for hearing will be given to the applicant.~~

~~29-010.04D The Department will act within 150 days on all completed applications.~~

~~29-010.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet 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~~

~~29-010.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:~~

- ~~1. A written application which contains the following information about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the applicant explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the applicant's credential by another state, submit an official~~

- ~~copy of the disciplinary action, including charges and disposition; and~~
- ~~(c) Disciplinary charges pending against any professional credential held by the applicant.~~
 - ~~(6) Attestation that the continuing competency requirements for renewal have been met;~~
 - ~~2. The renewal fee, the late fee of \$35 and any other applicable fees.~~
 - ~~3. Attestation by the applicant:
 - ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential:
 - ~~(1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 29-014 in which case a notice and opportunity for hearing will be sent to the applicant.~~
 - ~~(2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 29-010.06B below.~~~~~~

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

~~29-010.06A The Board's recommendation to the Department may be to:~~

- ~~1. Reinstatement of the credential;~~
- ~~2. Reinstatement of the credential with terms, conditions or restrictions; or~~
- ~~3. Denial of reinstatement.~~

~~29-010.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:~~

- ~~1. Reinstatement of the credential: An Administrative Penalty may be assessed pursuant to 172 NAC 29-014 if warranted;~~
- ~~2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - ~~a. Reinstatement of the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 29-014 if warranted; or~~
 - ~~b. Denial of reinstatement: In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.~~~~

~~29-010.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:~~

- ~~1. Petition the Board for reinstatement 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.~~

~~29-010.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:~~

- ~~1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;~~

~~29-010.08D1—The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.~~

~~29-010.08E—If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.~~

~~29-010.08F—The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.~~

~~29-010.08F1—If the Board recommends reinstatement of the credential, the Department may:~~

- ~~1. Accept the Board's recommendation and grant reinstatement of the credential; or~~
- ~~2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, 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.~~~~

~~29-010.08F2—If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~29-010.08F3—If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:~~

- ~~1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or~~
- ~~2. Not accept the Board's recommendation and either:
 - ~~a. Deny reinstatement of the credential; or~~
 - ~~b. Grant reinstatement of the credential.~~~~

~~29-010.08F4—The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.~~

~~29-010.08F5—The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~29-010.09— Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:~~

- ~~1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.~~
- ~~2. Pay the reinstatement fee of \$75; and~~
- ~~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.~~

~~29-010.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:~~

- ~~1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) 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~~

~~29-010.10B—The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.~~

~~29-010.10C—Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.~~

~~29-010.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~

~~29-010.10E—Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board, if formally requested by the petitioner.~~

~~29-010.10E1—The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.~~

~~29-010.10E2—If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.~~

~~29-010.10F—If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.~~

~~29-010.10G—The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.~~

~~29-010.10G1—If the Board recommends reinstatement of the credential:~~

- ~~1.—The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director; and~~
- ~~2.—The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation:
 - ~~a.—The application must include:
 - ~~(1)—Name of the petitioner; and~~
 - ~~(2)—Signed statement that the petitioner requests the Director to issue the credential pursuant to the Board's recommendation for reinstatement.~~~~~~

- ~~3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - ~~a. The application;~~
 - ~~b. The written recommendation of the Board, including any finding of fact or order of the Board;~~
 - ~~c. The petition submitted to the Board;~~
 - ~~d. The record of hearing, if any;~~
 - ~~e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.~~~~

 - ~~4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - ~~a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner; and~~
 - ~~b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~~~
- ~~29-010.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:~~
- ~~1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.~~

 - ~~2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - ~~a. The application must include:
 - ~~(1) Name of the petitioner; and~~
 - ~~(2) Signed statement that the petitioner requests the Director to issue the credential pursuant to the Board's recommendation for reinstatement.~~~~~~

 - ~~3. Upon receipt of the application for reinstatement from the petitioner,~~

~~the Department will submit the following to the Director:~~

- ~~a. The application;~~
- ~~b. The written recommendation of the Board, including any finding of fact or order of the Board;~~
- ~~c. The petition submitted to the Board;~~
- ~~d. The record of hearing, if any;~~
- ~~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.~~

~~29-010.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

29-010.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

~~29-010.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.~~

~~29-010.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:~~

- ~~1. A written application which contains the following information about the applicant:
 - ~~a. Name;~~
 - ~~b. Address;~~
 - ~~c. Social Security Number; and~~
 - ~~d. If the applicant holds a professional credential in another state,~~~~

- a list of the state(s) and type of credential;
 - e. ~~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 probation.~~~~~~
 - (2) ~~Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) ~~If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~~~
 - (3) ~~Disciplinary charges pending against any professional credential held by the applicant.~~~~
- f. ~~Any continuing competency activities.~~
- g. ~~Attest:
 - (1) ~~That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or~~
 - (2) ~~To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.~~~~

~~29-010.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 29-014;~~
- ~~2. Initiate disciplinary action against the credential;~~
- ~~3. Deny the request to restore the credential; or~~
- ~~4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~29-010.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:~~

- ~~1. Initiate disciplinary action against the credential;~~
- ~~2. Deny the request for restoration of the credential; or~~

- ~~3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~29-010.11A4 In either event pursuant to 29-010.11A2 or 29-010.11A3, a notice and the opportunity for hearing will be given to the applicant.~~

~~29-010.11A5 The Department will act within 150 days on all completed applications.~~

~~29-010.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time~~

~~29-010.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.~~

~~29-010.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 29-014.~~

~~29-010.13 Credentials Voluntarily Surrendered or Limited Permanently~~

~~29-010.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.~~

~~29-010 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:~~

- ~~1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.~~
- ~~2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.~~
- ~~3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.~~
- ~~4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.~~

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

~~29-010.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter~~

~~The applicant must submit to the Department a written application on a form provided by the~~

Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable;
or
 - (4) A Form I-94 (Arrival-Departure Record);
 - c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
 - d. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 29-006 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 29-008 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who

is eligible for a credential under the Uniform Credentialing Act: or

- (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee(s): The following fee(s):
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

29-010.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

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

29-010.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

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

29-010.01C The Department will act within 150 days on all completed applications.

29-010.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

29-010.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 29-010.01.

29-010.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

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

1. Application: The applicant must on his/her application:

- a. Must provide the following information:
- (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number. Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
- b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable;
or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
- (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 29-006 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced; and
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 29-008 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts;
 - (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;

- (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
- (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee: The renewal fee.

29-010.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

29-010.03B The Department, with the recommendation of the Board, may:

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

29-010.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 29-010.03B, the Board may:

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

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 23-011, in which case a separate notice of opportunity for hearing will be sent to the applicant.

29-010.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

29-010.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

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

29-010.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

29-010.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

29-010.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail.

The following information will be forwarded to the Director for a decision:

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

29-010.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

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

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

29-011 RESERVED

29-0114 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a ~~license~~-credential to practice a profession or operate a business. Practice without a ~~license~~-credential for the purpose of this regulation means practice:

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

29-0114.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a ~~license~~-being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care,

- or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
 - ~~6.~~ Water well registration or other government records indicate that the person was engaged in practice; and
 - ~~67.~~ The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

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

29-0114.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a ~~license~~ credential. To assess the penalty, the Department will:

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

29-0114.03 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~~ the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

29-012 METHOD OF IDENTIFICATION: Every person credentialed as a chiropractor/chiropractic physician shall make his/her current credential available upon request. The method of identification shall be clear and easily accessed and used by the consumer. Identification may be done by the following methods: verbally; through signage; and/or written medium. All signs, announcements, stationery, and advertisements of chiropractors/chiropractic physicians, shall identify the profession. The initials DC/CP are acceptable identifiers.

29-012 RESERVED

29-013 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

29-013 SCHEDULE OF FEES: The following fees have been set by the Department to be paid as a condition for issuance of licensure:

- ~~1. Initial License Fee: By an applicant for a license to practice chiropractic, the fee of \$125, and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period;~~
- ~~2. Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial date, the fee of \$31.25 and the Licensee Assistance Program fee of \$1.~~
- ~~3. License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice chiropractic, the fee of \$198 and the Licensee Assistance Program fee of \$2;~~
- ~~4. Inactive License Status Fee: By a licensee to place his/her license on inactive status, the fee of \$25;~~
- ~~5. Renewal Late Fee: By an applicant for a 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 charge, to be paid in addition to the renewal fee;~~
- ~~6. Certification of License Fee: For issuance of a certification of a chiropractic license the fee of \$25. The certification includes information regarding:
 - ~~a. The basis on which a license was issued;~~
 - ~~b. The date of issuance;~~
 - ~~c. Whether disciplinary action has been taken against the license; and~~
 - ~~d. The current status of the license.~~~~
- ~~7. Verification of License Fee: For issuance of a verification of a license the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.~~
- ~~8. Duplicate License Fee: By an applicant for a duplicate original license or a reissued license, the fee of \$10;~~
- ~~9. Administrative Fee: For a denied license or withdrawn application, the administrative fee of \$25 will be retained by the Department except if the licensing fee is less than \$25, the fee will be forfeited.~~
- ~~10. Reinstatement Late Fee: For reinstatement of a chiropractic license, for failure to meet renewal requirements:
 - ~~a. Within one year, the fee of \$35 in addition to the renewal fee.~~
 - ~~b. After one year of revocation, the fee of \$75 in addition to the renewal fee.~~~~

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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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~~11. Reinstatement Fee: For reinstatement of a chiropractic license following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.~~

~~These amended rules and regulations replace Title 172 NAC 29 Regulations Governing the Practice of Chiropractic, effective June 13, 2001.~~