

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 114 PRACTICE OF OCCUPATIONAL THERAPY

114-001 SCOPE AND AUTHORITY: These regulations ~~are intended to implement the laws governing the practice-credentialing of occupational therapists and occupational therapy assistants and set forth the procedures for licensing pursuant to~~ Neb. Rev. Stat. §§ 71-110, 71-124.01, 71-147 to 71-161.19, 71-162, 71-6101 to 71-612338-2501 and 38-2531, and the Uniform Licensing Law Credentialing Act (UCA).

114-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-6101 to 71-612338-2501 to 38-2531, known as the Practice of Occupational Therapy Practice Act.

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

Active license means the license of a person who is acting, practicing, functioning and working in compliance with the requirements of a license.

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

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

Approved supervised field work experience means a period of supervised field work experience at an educational institution approved by the Department and where the occupational therapist's or occupational therapy assistant's academic work was completed or which was part of a training program approved by the educational institution. A minimum of six months of supervised field work experience will be required for an occupational therapist and a minimum of two months of supervised field work experience is required for an occupational therapy assistant.

Association means a recognized national or state association for occupational therapy.

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

Audit means the selection of licensees for verification of satisfactory completion of the continuing education requirements of the act during the biennium.

Basic Educational Program/Educational Program means:

1. A program for the education of occupational therapists which is recognized by the Department and accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association or predecessor organizations.
2. A program for the education of occupational therapy assistants which is recognized by the Department and accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association or predecessor organizations.

Board means the Board of Occupational Therapy Practice.

Certified occupational therapy assistant means a person who is certified pursuant to guidelines established by the National Board for Certification in Occupational Therapy (NBCOT).

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

Confidential information means information protected as privileged under applicable law.

Consultation or in association with means providing professional advice.

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

Continuing education means planned, organized learning activities designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

Continuing education activity means the various methods in which a licensee can obtain the necessary continuing education for license renewal.

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

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

Credential means a license, certificate, or registration.

Deep thermal agent modalities means therapeutic ultrasound and phonophoresis. Deep thermal agent modalities ~~doe~~s not include the use of diathermy or lasers.

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

Electrotherapeutic agent modalities means neuromuscular electrical stimulation, transcutaneous electrical nerve stimulation, and iontophoresis. Electrotherapeutic agent modalities ~~do~~s not include the use of ultraviolet light.

Hour as it relates to continuing education means at least 60 minutes of participation in an organized learning experience otherwise known as a "contact hour."

1. One academic semester hour is equal to 15 contact hours. ~~Thus a~~n approved three credit hour course ~~would~~ provides 45 contact hours of continuing education credit.
2. One academic quarter hour is equal to ten contact hours. ~~Thus a~~n approved three credit hour course would provide 30 contact hours of continuing education credit.

Inactive license credential means ~~a credential which the credential holder has~~ voluntarily placed on inactive status and by which action has terminated ~~edion of~~ the right or privilege to practice as a licensed occupational therapist or occupational therapy assistant. The licensee retains the right or privilege to ~~or~~ represent himself/herself as having an inactive ~~license credential~~.

Laser means a mechanism for emitting electromagnetic radiation using heat via the process of stimulated emission. This does not include a method where light is applied to tissue in order to influence cell or tissue functions with such low light that heating is negligible.

Lapsed license means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice as a licensed occupational therapist or occupational therapy assistant.

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

Licensure examination means the National Board for Certification in Occupational Therapy (NBCOT) Examination administered by the Professional Examination Service.

Mechanical devices means intermittent compression devices. Mechanical devices do not include devices to perform spinal traction.

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

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 114.

National association means the American Occupational Therapy Association or equivalent organization.

Occupational therapist means a person holding an ~~active~~ current license ~~as to practice~~ occupational ~~therapist~~ therapy.

Occupational Therapist ~~therapist Registered~~ registered means a person who is ~~certified~~ registered pursuant to guidelines established by the National Board for Certification in Occupational Therapy (NBCOT).

Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize ~~independence~~ independent function, prevent further disability, and achieve and maintain health and productivity. Occupational therapy encompasses evaluation,

treatment, and consultation and may include: ~~Occupational therapy may include teaching daily living skills, developing perceptual-motor skills and sensory integrative functioning, developing prevocational capacities, designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment, using specifically designed therapeutic media and exercises to enhance functional performance, administering and interpreting tests such as manual muscle and range of motion, and adapting environments for the handicapped.~~

1. Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes;
2. Adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance;
3. Disability prevention methods and techniques which facilitate the development or safe application of performance skills; and
4. Health promotion strategies and practices which enhance performance abilities.

Occupational therapy aide means a person who ~~is not licensed under the Occupational Therapy Practice Act and who provides supportive services to occupational therapists and occupational therapy assistants. assists in the practice of occupational therapy, who works under the supervision of an occupational therapist, and whose activities require an understanding of occupational therapy but do not require professional or advanced training or licensure.~~

Occupational therapy assistant means a person holding ~~an active license~~ a current license to assist in the practice of ~~as an occupational therapy assistant.~~

Occupational therapy services mean ~~an occupational therapist may perform the following services:~~

1. Evaluate, develop, improve, sustain, or restore skills in activities of daily living, work activities, or productive activities, including instrumental activities of daily living, and play and leisure activities;
2. Evaluate, develop, remediate, or restore sensorimotor, cognitive, or psychosocial components of performance;
3. Design, fabricate, apply, or train in the use of assistive technology or orthotic devices and train in the use of prosthetic devices;
4. Adapt environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;
5. If certified pursuant to section 38-2530, apply physical agent modalities as an adjunct to or in preparation for engagement in occupations when applied by a practitioner who has documented evidence of possessing the theoretical background and technical skills for safe and competent use;
6. Evaluate and provide intervention in collaboration with the client, family, caregiver, or others;
7. Educate the client, family, caregiver, or others in carrying out appropriate nonskilled interventions; and
8. Consult with groups, programs, organizations, or communities to provide population-based services.

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

Onsite means the location where the occupational therapy assistant is providing occupational therapy services.

Onsite supervision means the occupational therapist or occupational therapy assistant must be physically present at the practice site to direct all actions when occupational therapy services are being provided

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

Physical agent modalities means modalities that produce a biophysiological response through the use of water, temperature, sound, electricity, or mechanical devices.

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

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

Superficial thermal agent modalities means hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling technologies.

Supervision means the process by which the quantity and quality of work of an occupational therapy assistant is monitored. Supervision means the directing of the authorized activities of an occupational therapy assistant by a licensed occupational therapist and will not be construed to require the physical presence of the supervisor when carrying out assigned duties.

Treatment plan means a written statement setting forth the goals, method of treatment, and time frame for goal achievement.

~~Verified means sworn to before a Notary Public.~~

114-003 INITIAL CREDENTIAL

114-003.01 Qualifications: To receive a credential to practice as an occupational therapist or an occupational therapy assistant, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Resident Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Have successfully completed the academic requirements of an educational program in occupational therapy for an occupational therapist or occupational therapy assistant;

4. Field Experience: Have successfully completed an approved supervised fieldwork experience for an occupational therapist or for an occupational therapy assistant; and
5. Examination: Have passed the licensure examination with a scaled score of 450 or above for the applicable credential.

114-003.01A License Based on a License in Another Jurisdiction: If an applicant holds a current license in another jurisdiction as an occupational therapist or occupational therapy assistant and is practicing at the time s/he makes application, the applicant must meet the qualifications outlined in 114-003.01 items 1-5.

114-003.01B Passed Licensure Examination But Is Not Practicing An applicant who has met the requirements in accordance with 172 NAC 114-003.01, items 1-5, who passed the examination more than three years prior to the time of application for licensure, and who is not practicing at the time of application for licensure must present proof to the Department, that s/he has within the three years immediately preceding the application for licensure, completed 50 hours of continuing education pursuant to 172 NAC 114-009.01, as follows:

1. 30 hours related to the clinical practice of occupational therapy; and
2. 20 hours related to the practice of occupational therapy.

114-003.01C Licensed in Another Jurisdiction But Is Not Practicing An applicant who has met the standards for licensure pursuant to 172 NAC 114-003.01, items 1-5, based on licensure in another jurisdiction and who is not practicing at the time of application for licensure must present proof to the Department, that s/he has within the three years immediately preceding the application for licensure, completed 50 hours of continuing education pursuant to 172 NAC 114-009.01, as follows:

1. 30 hours related to the clinical practice of occupational therapy; and
2. 20 hours related to the practice of occupational therapy.

114-003.01D Temporary License: A temporary license allows the applicant to practice only in association with a licensed occupational therapist and is valid until the date the results of the licensure examination are available to the Department. A temporary license may be issued to an applicant who has met all requirements for licensure pursuant to 172 NAC 114-003.01, except passing or failing the licensure examination.

114-003.01D1 Extension of Temporary License: A temporary credential holder who was unable to take the licensure examination may apply for an extension of his/her temporary license. A temporary license may not be extended beyond one year.

114-003.01D1a An applicant for extension of a temporary license must provide documentation showing good cause, which includes but is not limited to:

1. Military Service: An applicant who has served in the regular armed forces of the United States during part of the credentialing period immediately or is

actively engaged in military service as defined in 172 NAC 114-002. The individual must document his/her military service by submitting to the Department:

a. Military identification proving that s/he is in active service;

b. Military orders; or

c. A letter from his/her Commanding Officer indicating that s/he is on active duty;

2. Illness: These circumstances may include proof that the credential holder was suffering from a serious or disabling illness or physical disability. The individual must document his/her illness by submitting to the Department a statement from treating physician(s) stating that the individual were injured or ill, the duration of the illness or injury and of the recovery period; or
3. Other circumstances: An applicant who suffered from circumstances beyond his/her control must submit documentation of the circumstances.

114-003.01D1b An applicant is ineligible for an extension if s/he:

1. Failed the licensure examination; or

2. Held a temporary occupational therapy license for one year.

114-003.02 Application: To apply for a credential to practice as an occupational therapist or occupational therapy assistant, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

(1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;

(2) Date of birth (month, day, and year);

(3) Place of birth (city and state or country if not born in the United States);

(4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);

(5) The applicant's:

(a) Social Security Number (SSN); or

(b) Alien Registration Number ("A#"); or

(c) Form I-94 (Arrival-Departure Record) number.

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

(6) The applicant's telephone number including area code (optional);

(7) The applicant's e-mail address (optional);

(8) The applicant's fax number (optional);

b. Practice Before Application: The applicant must state:

(1) That s/he has not practiced occupational therapy in Nebraska before submitting the application; or

(2) If s/he has practiced occupational therapy in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting

- the application for a credential and the name and location of practice; and
- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 114-011 or if an act(s) was committed, provide an explanation of all such acts;
 - (5) S/he is;
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i.) A citizen of the United States; or
 - (ii.) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii.) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (d) All addiction/mental health evaluations and proof of treatment, if the

- conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
- (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
- (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
- (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
- (3) An American Indian Card (I-872);
- (4) A Certificate of Naturalization (N-550 or N-570);
- (5) A Certificate of Citizenship (N-560 or N-561);
- (6) Certification of Report of Birth (DS-1350);
- (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
- (8) Certification of Birth Abroad (FS-545 or DS-1350);
- (9) A United States Citizen Identification Card (I-197 or I-179);
- (10) A Northern Mariana Card (I-873);
- (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record);
- e. Documentation of education, including:
- (1) Name and date of diploma/degree awarded; and
- (2) Name of school, college or university that awarded the degree;
- (3) Official transcript from institution awarding the occupational therapy degree; and
- (4) Dates of supervised field experience;
- f. Documentation of examination, including:
- (1) Name of examination;
- (2) Date of examination; and
- (3) Proof of passing the licensure examination with a scaled score of 450 or above; and
- g. A statement from the applicant:
- (1) Stating that the examination rating/grades have been requested from the appropriate examination service or State Board Office; and
- (2) Stating that an official transcript of successful completion of an education program for an occupational therapist or occupational therapy assistant was

requested to be sent to the Department.

h. Documentation of licensure in another jurisdiction, including:

(1) Certification from the other jurisdiction (s) verifying licensure, including:

(a) Date of initial Licensure;

(b) The name of the examination on which licensure was based;

(c) The score attained on the examination;

(d) Date of the examination;

(e) Name of accredited program that the applicant presented a transcript from;

(f) The nature of disciplinary actions, if any, taken against the applicant's credential.

(2) The applicant must:

(a) Attest that s/he has practiced within the three years preceding the application;

(b) Provide the dates and locations of practice; and

i. Documentation of continuing competency if s/he passed the licensure examination but is not practicing; Submit certificates of attendance verifying the 50 hours of continuing competency pursuant to 172 NAC 114-009.01; and

j. Documentation of continuing competency if s/he is licensed in another jurisdiction but is not practicing; Submit certificates of attendance verifying the 50 hours of continuing competency pursuant to 172 NAC 114-009.01; and

3. Fee: The required license fee according to 172 NAC 2.

114-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

114-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

114-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential or if the applicant is found to have committed any of the grounds listed in 172 NAC 114-011, the Department will deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

114-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

114-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 114-014 or such other action as provided in the statutes and regulations governing the credential.

114-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

114-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

114-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

~~114-003 REQUIREMENTS FOR ISSUANCE OF LICENSE AND TEMPORARY PERMITS: Any person who wishes to represent himself/herself as a licensed occupational therapist or a licensed occupational therapy assistant after July 10, 1984 must obtain a license or temporary permit. The criteria for issuance of licenses and permits, and the documentation required by the Department and the Board are set forth below.~~

114-003.01 Licensure of an Occupational Therapist

~~114-003.01A An applicant for a license to practice as an occupational therapist on the basis of examination must:~~

- ~~1. Have successfully completed the academic requirements of an educational program for occupational therapists;~~
- ~~2. Have successfully completed a minimum of six months of approved supervised field work experience at the educational institution approved by the Department where the applicant's academic work was completed or which is part of a training program approved by such educational institution;~~
- ~~3. Have passed the licensure examination with a scaled score of 450; and~~
- ~~4. Submit to the Department:
 - ~~a. An official transcript showing completion of an educational program for occupational therapists and showing completion of approved supervised field work experience;~~
 - ~~b. Official documentation of passing the examination;~~
 - ~~c. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and~~~~

~~d.—Attestation by the applicant:~~

- ~~(1) That s/he has not practiced in Nebraska prior to the application for a license;~~
~~or~~
- ~~(2) To the actual number of days practiced in Nebraska prior to the application for a license; and~~

~~e.—The required license fee.~~

- ~~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 \$26, 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 114-014 or such other action as provided in the statutes and regulations governing the license.~~

~~114-003.01B An applicant for a license to practice as an occupational therapist on the basis of experience and certification by a National Association as a registered occupational therapist must:—~~

- ~~1.—Have actively practiced occupational therapy for at least one year of the five years immediately prior to July 10, 1984;~~
- ~~2.—Have obtained certification as a registered occupational therapist from the American Occupational Therapy Certification Board; and~~
- ~~3.—Submit to the Department:~~
 - ~~a.—A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications that are complete will be considered;~~
 - ~~b.—Official documentation of certification as a registered occupational therapist by the American Occupational Therapy Certification Board;~~
 - ~~c.—Official documentation about employment showing practice in good standing as an occupational therapist for at least one year of the five years immediately prior to July 10, 1984, on a form provided by the Department, a copy of which is attached as Attachment A1 and incorporated into these regulations pursuant to 172 NAC 114; and~~
 - ~~d.—Attestation by the applicant:~~

- ~~(1) That s/he has not practiced in Nebraska prior to the application for a license; or~~
- ~~(2) To the actual number of days practiced in Nebraska prior to the application for a license; and~~
- ~~e. The required license fee.~~
- ~~4. The Department will act within 150 days upon all completed applications for licensure.~~
- ~~5. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.~~
- ~~6. 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 114-014 or such other action as provided in the statutes and regulations governing the license.~~

~~114-003.02 Licensure of an Occupational Therapy Assistant~~

~~114-003.02A~~ ~~An applicant for a license to practice as an occupational therapy assistant on the basis of examination must:~~

- ~~1. Have successfully completed the academic requirements of an educational program for occupational therapy assistants;~~
- ~~2. Have successfully completed a minimum of two months of an approved supervised field work experience at the educational institution approved by the Department and where the applicant's academic work was completed or which is part of a training program approved by the educational institution;~~
- ~~3. Have passed the licensure examination with a scaled score of 450; and~~
- ~~4. Submit to the Department:
 - ~~a. An official transcript showing completion of an educational program for occupational therapy assistants and showing completion of approved supervised field work experience;~~
 - ~~b. Official documentation of passing the examination;~~
 - ~~c. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and~~~~

~~d. Attestation by the applicant:~~

- ~~(1) That s/he has not practiced in Nebraska prior to the application for a license; or~~
- ~~(2) To the actual number of days practiced in Nebraska prior to the application for a license; and~~

~~e. The required license fee.~~

- ~~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 \$26, 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 pursuant to 172 NAC 114-014 or such other action as provided in that statutes and regulations governing the license.~~

~~114-003.02B - An applicant for a license to practice as an occupational therapy assistant on the basis of experience and certification by a National Association as a certified occupational therapy assistant must:~~

- ~~1. Have actively practiced occupational therapy for at least one year of the five years immediately prior to July 10, 1984;~~
- ~~2. Have obtained certification as a Certified Occupational Therapy Assistant from the American Occupational Therapy Certification Board; and~~
- ~~3. Submit to the Department:~~
 - ~~a. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications that are complete will be considered;~~
 - ~~b. Official documentation of certification as a Certified Occupational Therapy Assistant by the American Occupational Therapy Certification Board;~~
 - ~~c. Official documentation of employment showing practice in good standing as an occupational therapy assistant for at least one year of the five years immediately prior to July 10, 1984, on a form provided by the Department, a copy of which is attached as Attachment A1 and incorporated into these regulations pursuant to~~

~~172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A1 or by using an alternate format, which s/he prefers;~~

~~d. Attestation by the applicant:~~

- ~~(1) That s/he has not practiced in Nebraska prior to the application for a license;
or
(2) To the actual number of days practiced in Nebraska prior to the application for a license; and~~

~~e. The required license fee; and~~

- ~~4. The Department will act within 150 days upon all completed applications for licensure.~~
- ~~5. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.~~
- ~~6. 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 114-014 or such other action as provided in the statutes and regulations governing the license.~~

~~114-003.03 License Based on a License Issued in Another Jurisdiction: An applicant for a license to practice as an Occupational Therapist or Occupational Therapy Assistant on the basis of licensure in another jurisdiction must:~~

- ~~1. Provide proof of current licensure as an occupational therapist or occupational therapy assistant in another jurisdiction;~~
- ~~2. Provide documentation that the standards for licensure as an occupational therapist or occupational therapy assistant in the other jurisdiction are substantially equivalent to the requirements for licensure of the Occupational Therapy Practice Act;~~
- ~~3. Submit to the Department:~~
- ~~a. A complete application on a form provided by the Department, a copy of which is attached as Attachment A, and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and~~
- ~~b. Attestation by the applicant:~~
- ~~(1) That s/he has not practiced in Nebraska prior to the application for a license; or~~
- ~~(2) To the actual number of days practiced in Nebraska prior to the application for a license; and~~

- ~~c. The required licensure fee.~~
 - ~~4. Have the licensing or certifying agency submit to the Department:
 - ~~a. A certification that the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement, on a form provided by the Department, a copy of which is attached as Attachment A2, and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A2 or by using an alternate format, which s/he prefers;~~
 - ~~b. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;~~
 - ~~c. The date of the applicant's license or certificate;~~
 - ~~d. The name of the examination on which licensure was based;~~
 - ~~e. The score attained on the examination; and~~
 - ~~f. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued.~~~~
 - ~~5. The Department must review the documents submitted to determine if the applicant is currently licensed in the other jurisdiction and if such licensure was based upon standards which are substantially equivalent to the requirements for licensure of the Occupational Therapy Practice Act.~~
 - ~~6. The Department will act within 150 days upon all completed applications for licenses.~~
 - ~~7. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.~~
 - ~~8. 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 114-014 or such other action as provided in the statutes and regulations governing the license.~~
- ~~114-003.04 Temporary Permit: A temporary permit may be issued to an applicant who has met all requirements for licensure pursuant to 172 NAC 114-003.01 or 172 NAC 114-003.02, except for passing the licensure examination, and who has not previously taken the licensure examination. Such applicant must:~~
- ~~1. Submit to the Department:~~

- ~~a.—A complete application on a form provided by the Department, a copy of which is attached as Attachment B and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment B or by using an alternate format, which s/he prefers. Only applications which are complete will be considered;~~
 - ~~b.—An official transcript showing completion of an educational program for occupational therapists or occupational therapy assistants and completion of approved supervised field work experience;~~
 - ~~c.—Attestation by the applicant:
 - ~~(1) That s/he has not practiced in Nebraska prior to the application for a license; or~~
 - ~~(2) To the actual number of days practiced in Nebraska prior to the application for a license; and~~~~
 - ~~d.—The required fee.~~
- ~~2.—The temporary permit is valid until the date the results of the licensure examination are available to the Department for the first examination administered after the issuance of the temporary permit.~~
 - ~~3.—The Department will act within 150 days upon all completed applications for a temporary permit.~~
 - ~~4.—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 114-014 or such other action as provided in the statutes and regulations governing the license.~~
- ~~114-003.05 Extension of Temporary Permit: A temporary permit holder who was unable to take the licensure examination may apply for an extension of his/her temporary permit.~~

~~114-003.05A An applicant for extension of a temporary permit must:~~

- ~~1.—Provide documentation showing good cause, which includes but is not limited to: illness, active military service, or other circumstances which prevented the applicant from taking the licensure examination; and~~
- ~~2.—Submit to the Department:
 - ~~a.—A complete application on a form provided by the Department, a copy of which is attached as Attachment C and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment C or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and~~
 - ~~b.—A verified copy of military orders delineating dates of active duty;~~~~

~~c.—A statement from an attending physician stating the general nature of the illness or injury and the recovery period;~~

~~d.—Documentation of other circumstances which prohibited the taking of the licensure examination.~~

~~114-003.05B—An applicant is ineligible for an extension if s/he:~~

- ~~1.—Failed the licensure examination; or~~
- ~~2.—Held a temporary occupational therapy permit for one year.~~

~~114-003.05C—The Department may, upon recommendation of the Board, grant or deny an application for extension of a temporary permit.~~

~~114-003.05C1—When the Department determines to deny an application for extension of a temporary permit, it will send to the applicant by certified mail a notice setting forth the reasons for the denial determination.~~

~~114-003.05C2—The applicant has 30 days from the date of receipt of the denial notice to make a request to the Department for an appeal. The appeal must be conducted pursuant to 184 NAC 1, Rules of Practice and Procedure for the Department.~~

~~114-003.05C3—The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.~~

~~114-003.05D—Failure to submit the required documentation will result in automatic rejection of the application for extension.~~

~~114-003.05E—Falsification of any information submitted for extension of a temporary permit will require the Department to refuse to grant an extension of a temporary permit. Such refusal is pursuant to Neb. Rev. Stat. § 71-6111 and 184 NAC 1.~~

114-004 EXAMINATION ELIGIBILITY

114-004.01 To be eligible to take the licensure examination, an applicant must have met all the requirements for licensure that are pursuant to 172 NAC 114-003.01 ~~or 172 NAC 114-003.02~~ except passage of such examination.

114-004.02 To take the examination, an applicant must submit a complete examination application form and fee to: NBCOT Testing Office, Professional Examination Service, 475 Riverside Drive, New York, NY 10115 or register online at www.nbcot.org

114-005 REQUIREMENTS FOR CERTIFICATION TO APPLY PHYSICAL AGENT MODALITIES:
In order to apply physical agent modalities, a licensed occupational therapist or licensed occupational therapy assistant must be certified by the Department. Any person who ~~was practicing as (a) an occupational therapist and administering physical agent modalities or (b) an occupational therapy assistant setting up and implementing superficial thermal agent modalities prior to July 16, 2004 may continue to administer the modalities until July 1, 2006. After July 1, 2006, any person~~

~~who~~ wishes to administer the modalities must obtain certification pursuant to Neb. Rev. Stat. § 71-612238-2530. Physical agent modalities may be used by occupational therapy practitioners when used as an adjunct to/or in preparation for purposeful activity to enhance occupational therapy performance. ~~The o~~ccupational therapy practitioners must have documented evidence of possessing the theoretical background and technical skills for safe and competent use.

114-005.01 Certification for a Licensed Occupational Therapist/Occupational Therapy Assistant to Apply Physical Agent Modalities: A licensed occupational therapist must obtain a certification to apply superficial thermal agent modalities, deep thermal agent modalities, or electrotherapeutic agent modalities, or a combination thereof. ~~The criteria for issuance of a certification to apply physical agent modalities and the documentation required by the Department and the Board are set forth below.~~A licensed occupational therapy assistant must obtain a certification to apply superficial thermal agent modalities. An occupational therapist must not delegate evaluation, reevaluation, treatment planning and treatment goals for physical agent modalities to an occupational therapy assistant.

114-005.01A Superficial Thermal Agent Modalities: To ~~obtain~~receive a certification to apply superficial thermal agent modalities, a licensed occupational therapist or occupational therapy assistant must meet the following qualifications:

1. Successfully complete a minimum of six hours of Board approved training or its equivalent and pass an end of the course written or computer-based examination approved by the Board which tests competency in the use of superficial thermal agent modalities. The training must include the following:
 - a. Biophysical and biophysiological changes which occur with cryotherapy;
 - b. Indications, contraindications and precautions for the application of cold agents;
 - c. Clinical reasoning involved in the application of cold agents;
 - d. Commonly used types of cold agents;
 - e. Application procedures for each cold modality;
 - f. Definition of the term superficial thermal agent;
 - g. Differentiation between the two commonly used methods of heat transfer: conduction and convection;
 - h. The four biophysical effects of heat;
 - i. The physiologic response to tissue secondary to temperature elevation;
 - j. Differentiation between mild, moderate and vigorous dosages of heat;
 - k. Indications, precautions, and contraindications that should be considered when using superficial thermal agents;
 - l. Proper clinical applications for hot packs, paraffin bath, fluidotherapy, whirlpool, and contrast bath;
 - m. Guidelines for educating the client and/or family in the purpose, benefit and potential risk(s) of the modality; and
 - n. Universal precautions, sterile techniques, infection control, and the use of modalities; OR
2. Be certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the Board. Any occupational therapist who bases their certificate on their hand therapist certification will receive certification for

all three levels of physical agent modalities; OR

3. Have a minimum of five years of experience in the use of the ~~physical-superficial thermal~~ agent ~~modality-modalities~~ and pass the ~~examination approved by the Board on the physical agent modality pursuant to 172 NAC 114-005.09~~Nebraska Physical Agent Modalities Testing Service Examination titled Superficial Thermal Agents Test; OR
4. Successfully complete education during a basic educational program which includes demonstration of competencies for application of the ~~physical-superficial thermal~~ agent ~~modality-modalities~~.

114-005.01A1 An occupational therapy assistant may only set up and implement superficial thermal agent modalities under the onsite supervision of an occupational therapist certified to administer superficial thermal agent modalities.

114-005.01B Deep Thermal Agent Modalities: To ~~obtain-receive~~ a certification to apply deep thermal agents, a licensed occupational therapist must meet the following qualifications:

1. Successfully complete a minimum of 12 hours of Board approved training or its equivalent and pass an end of the course written or computer-based examination and a practical examination approved by the Board which tests competency in the use of deep thermal agent modalities. The training must include the following:
 - a. Theory and rationale for the application of therapeutic ultrasound;
 - b. Differentiation between the parameters for therapeutic ultrasound;
 - c. Current research trends in the utilization of ultrasound;
 - d. Clinical decision making in the determination of the appropriate treatment parameters for ultrasound;
 - e. Clinical procedures for the application of ultrasound;
 - f. Safe use of ultrasound, contraindications and precautions for treatment; and
 - g. Methods for maximizing therapeutic effect in the use of phonophoresis as a physical agent modality; OR
2. Be certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the Board. Any occupational therapist who bases their certificate on their hand therapist certification will receive certification for all three levels of physical agent modalities; OR
3. Have a minimum of five years of experience in the use of the ~~physical-deep thermal~~ agent ~~modality-modalities~~ and pass the ~~examination approved by the Board on the physical agent modality pursuant to 172 NAC 114-005.09~~Nebraska Physical Agent Modalities Testing Service Examination titled Deep Thermal Agents; OR
4. Successfully complete education during a basic educational program which includes demonstration of competencies for application of the ~~physical-deep thermal~~ agent ~~modality-modalities~~.

114-005.01C Electrotherapeutic Agent Modalities: To ~~obtain~~ receive a certification to apply electrotherapeutic agent modalities, a licensed occupational therapist must meet the following qualifications:

1. Successfully complete a minimum of 22 hours of Board approved training or its equivalent and pass an end of the course written or computer-based examination and a practical examination approved by the Board which tests competency in the use of electrotherapeutic agent modalities. The training must include the following:
 - a. Available parameters of electrical stimulation devices and the principles and concepts of electricity;
 - b. Physiological effects of electrical stimulation;
 - c. Therapeutic goals of electrical therapy;
 - d. Physiological events associated with electrical stimulation;
 - e. Distinguishing characteristic and indications and contraindications of electrical stimulation;
 - f. Physiological effects of various parameters of electrical stimulation (for example voltage, type, dosage, duty cycle, etc.);
 - g. Therapeutic relationship of electrotherapy with other therapeutic procedures;
 - h. Clinical application of electrical stimulation in rehabilitation;
 - i. Clinical reasoning process used to determine selection of Neuromuscular Electrical Stimulation (NMES) and appropriate parameters;
 - j. Parameters of therapeutic electrical currents;
 - k. Biophysiological responses to electrical currents;
 - l. Indications and contraindications for NMES use;
 - m. Appropriate electrode placement for treatment protocols;
 - n. Clinical applications for iontophoresis;
 - o. Definition and differentiation of the clinical application of iontophoresis from phonophoresis;
 - p. Biophysiology and mechanism related to transdermal delivery of medication;
 - q. Common medications used in iontophoresis and their pharmacology;
 - r. Clinical decision making regarding iontophoresis, indications and precautions;
 - s. The processes in pharmacokinetics: absorption, distribution, and metabolism;
 - t. The processes of pharmacodynamics as it pertains to routine drugs used in phonophoresis and iontophoresis;
 - u. Effects of physical agents, exercise, and manual techniques on pharmacokinetics; and
 - v. The aging process as it relates to pharmacokinetics; OR
 - v-w. Other nationally recognized commercially available technologies; OR
2. Be certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the Board. Any occupational therapist who bases their certificate on their hand therapist certification will receive certification for all three levels of physical agent modalities; OR
3. Have a minimum of five years of experience in the use of the physical electrotherapeutic agent modality/modalities and pass the examination approved by

~~the Board on the physical agent modality pursuant to 172 NAC 114-005.09 Nebraska Physical Agent Modalities Testing Service Examination titled Electrotherapeutic Agents Test; OR~~

4. Successfully complete education during a basic educational program which includes demonstration of competencies for application of the ~~physical electrotherapeutic agent modality modalities~~.

114-005.01D The Department will issue to each person who meets the requirements for a physical agent modality a certificate to administer physical agent modalities.

114-005.01D1 The certification to apply physical agent modalities will not expire.

114-004.01D2 The Department with the advice of the Board may discipline or deny a certificate to practice physical agent modalities for any of the grounds pursuant to 172 NAC 114-011

114-005.02 Application: To apply for certification to apply a physical agent modality, the applicant must submit a complete application to the Department. A complete application includes all required documentation and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:

a. Personal Information:

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

(6) The applicant's telephone number including area code (optional);

(7) The applicant's e-mail address (optional);

(8) The applicant's fax number (optional);

b. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced occupational therapy in Nebraska before submitting the application; or
- (2) If s/he has practiced occupational therapy in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and

c. License number and license type;

d. Type of physical agent modality;

- (1) Superficial thermal agent certification; or
 - (2) Deep thermal agent certification; or
 - (3) Electrotherapeutic agents certification; or
 - (4) Combination of modalities certification;
 - e. Applying for physical agent modality certification by one of the following means:
 - (1) Training course; or
 - (2) Five years experience and passage of written examination; or
 - (3) Education through basic occupational therapy degree program; or
 - (4) Hand Therapist Certification.
 - f. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 114-011 or if an act(s) was committed, provide an explanation of all such acts;
and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act;
and
 - (b) For purposes of Neb. Rev. Stat. §38-129:
 - (i) A citizen of the United States; or
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an

- examination, an explanation of the basis for the denial;
- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
- (a) A list of any misdemeanor or felony convictions;
- (b) A copy of the court record, which includes charges and disposition;
- (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
- (d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;
- (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is:
- (1) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
- (2) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
- (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
- (3) An American Indian Card (I-872);
- (4) A Certificate of Naturalization (N-550 or N-570);
- (5) A Certificate of Citizenship (N-560 or N-561);
- (6) Certification of Report of Birth (DS-1350);
- (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
- (8) Certification of Birth Abroad (FS-545 or DS-1350);
- (9) A United States Citizen Identification Card (I-197 or I-179);
- (10) A Northern Mariana Card (I-873);
- (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record);
- e. Applying for physical agent modality certification by one of the following means:
- (1) Training Course;
- (a) Transcript or certification from one of the Board approved courses or its equivalent
- (2) Five years experience and passage of written examination;
- (a) Start and end dates of employment using physical agent modalities;

- (b) Name, address and phone number of employer;
 - (c) Name of clinic supervisor or manager;
 - (d) Types of physical agent modalities used during employment; and
 - (e) Nebraska Physical Agent Modalities Testing Service Examination results submitted directly to the Department. To take the examination, you will need to register online at www.pampca.org for the Nebraska Physical Agent Modalities Testing Service and select the appropriate physical agent modality test.
- (3) Education through basic occupational therapy degree program:
 - (a) Application demonstrating competencies for physical agent modalities completed by the following:
 - [1] Applicant:
 - [a] Name;
 - [b] Social Security Number;
 - [c] Name when enrolled in degree program;
 - [d] Name of college or university;
 - [e] Dates of attendance;
 - [f] Date of graduation;
 - [g] Type of degree; and
 - [h] Name of courses to be verified; and
 - [2] University or College Official:
 - [a] Name of university or college official;
 - [b] Title;
 - [c] Name of Institution;
 - [d] Phone number;
 - [e] Date; and
 - [f] Review of course to be verified
 - (4) Hand therapist certification:
 - (a) Hand Therapy Certification Commission Certificate Number

3. Fee: The required license fee according to 172 NAC 2.

114-005.03 Certification Examination: Any occupational therapist or occupational therapy assistant having a minimum of five years of experience with physical agent modalities must pass the certification examination.

114-005.03A Certification Examination Procedures: The Nebraska Physical Agent Modalities Testing Service Examination will be administered by the Physical Agent Modalities Practitioner Credentialing Agency (PAMPCA, LLC), 627 Crofton Park Lane, Franklin TN 37069-6515, (866) 341-4106 or (615) 794-4106. The superficial thermal agents test is the only examination occupational therapy assistants are eligible to take. To register for an examination, the applicant must register online at www.pampca.org for the Nebraska Physical Agent Modalities Testing Service Examination and select one of the following five testing options:

1. Superficial Thermal Agents Test;
2. Deep Thermal Agents Test;
3. Superficial and Deep Thermal Agents Test;

4. Electrotherapeutic Agents Test; or
5. Comprehensive Physical Agents Modalities Test (includes Superficial, Deep and Electrotherapeutic Agents Tests).

If an applicant fails to attain a passing score of 75%, the applicant will be allowed to take a second test. If an applicant fails to attain a passing score on the second attempt, the applicant will not be eligible to receive the physical agent modality certification based on five year's experience and will need to obtain their certification through a Board approved training course pursuant to 172 NAC 114.005.01A, 172 NAC 114-005.01B, 172 NAC 114-005.01C.

114.005.03B Examination Results: The applicant will receive a letter from PAMPCA informing them of their examination results upon the completion of one or a combination of one of the Nebraska Physical Agent Modalities Testing Service Examinations.

114-005.04 Approval of Physical Agent Modality Courses: For a physical agent modality course to be approved by the Board, the course must meet the requirements pursuant to 172 NAC 114-005.01A item 1, 172 NAC 114-005.01B item 1, or 172 NAC 114-005.01C item 1.

114-005.04A Application: To apply for approval of a physical agent modality course, the course provider must submit a complete application to the Department. A complete application includes all required documentation and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written application:
 - a. Application Information:
 - (1) Name of course provider;
 - (2) Mailing address (street, rural route, or post office address' and city, state, and zip code, or country information;
 - (3) Provider's telephone number including area code (optional);
 - (4) Contact person's name;
 - b. Course Information:
 - (1) Name of course;
 - (2) Type of physical agent modality that the course covers;
 - (a) Superficial;
 - (b) Deep thermal; or
 - (c) Electrotherapeutic;
 - (3) Name of primary instructor;
 - (4) Number of contact hours for the physical agent modality that the course covers;
 - c. Answer the following questions:
 - (1) Do you maintain a list of the names of the people who completed your course?
 - (2) Do you maintain the score of each person who completed the end-of-course examination?
 - (3) If you maintain the scores, how long do you keep the information?
 - (4) Are you able to provide the Department with a list of the candidates who

- passed the course?
- (5) How many questions does your bank of examination questions contain?
- d. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete.
2. Documentation: The providers must submit the following documentation with the application:
- a. A course outline that includes the objectives of the course;
- b. An example of the end of course examination;
- c. Instructor(s) curriculum vitae;
- d. A sample of an official certificate of attendance or transcript. The certificate of attendance must be signed by the provider and the certificate or transcript must contain the following information:
- (1) Name of course;
- (2) Types of modalities that the course covers, (for example, superficial, electrotherapeutic, deep thermal);
- (3) Date of course;
- (4) Provider of course;
- (5) Contact hours completed;
- (6) Name of person attending the course; and
- (7) The score received on the end-of-course examination; and
- e. A description of the practicum procedures for the deep thermal and electrotherapeutic training, including the tool used to assess the candidate's competency

114-005.04B The approval of a course provider found to have issued a certificate of course completion to an individual who did not complete a course will be revoked.

114-005.04C Providers must agree that employees of the Department and/or its designees, in an official capacity, may audit classroom course instruction, course materials, instructors' presentations, course records, records of examination, attendance rosters and other aspects of instruction. These auditors will not be hindered, obstructed, delayed, prevented or interfered with while conducting or attempting to conduct an audit. Audits will be conducted with a minimum of disruptions. Providers agree that auditors may attend any Board-approved course offered for the purpose of the audit without paying any fee. Providers grant the Department and/or its designees the right to audit records at the premises of the provider or at the physical location of the records.

114-005.04D Providers must keep all records of attendance, records of examination, course records and requests for duplicate course completion certificates on file for five years. These records must be available to the Department upon request.

114-005.04E Once approved, a course may not be substantially altered without a new application being submitted to the Board. A substantial alteration is any change that would modify the content or time allocations would change any of the course topics or a change in instructors. If there is a change in instructors, the provider must request approval of the instructor by submitting a curriculum vitae for the new instructor. The Board will evaluate the

curriculum vitae and reaffirm or deny the physical agent modality course approval.

114-005.04F A course may not be advertised or otherwise promoted as appropriate for Nebraska physical agent modality certification until the course has been approved by the Board. Advertising a course as being offered for physical agent modality certification before approval of the course is grounds for disqualification as a provider.

114-005.04G The Board will semiannually develop and revise the list of approved physical agent modality certification courses, beginning with the effective date of these regulations, and will act within 150 days of all approved course applications.

114-005.04H Approved courses must be open to all licensees.

114-005.01D Physical Agent Modality Certifications: To obtain one or more of the physical agent modality certifications, a licensed occupational therapist must submit the following to the Department:

- ~~1. A complete application on a form provided by the Department, a copy of which is attached as Attachment D, and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment D or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and~~
- ~~2. Documentation of:
 - ~~a. A course in superficial, deep or electrotherapeutic physical agent modalities pursuant to 172 NAC 114-005.01A Item 1; 172 NAC 114-005.01B Item 1; or 172 NAC 114-005.01C Item 1; OR~~
 - ~~b. A certification from the Hand Therapy Certification Commission or other equivalent entity recognized by the Board. Any occupational therapist who bases their certificate on their hand therapist certification will receive certification for all three levels of physical agent modalities; OR~~
 - ~~c. A passing score of 75% or better on the Nebraska Physical Agent Modalities Testing Service examination for each physical agent Modality in which certification is being sought; and completion of Attachment D1, a copy of which is attached and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment D1 or by using an alternate format which s/he prefers. Only applications which are complete will be considered; OR~~
 - ~~d. Successfully completing education during a basic educational program which includes demonstration of competencies for application of the physical agent modality and completion of Attachment D2, a copy of which is attached and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment D2 or by using an alternate format which s/he prefers. Only applications which are complete will be considered;~~~~
- ~~3. Attestation by the applicant:~~

- ~~a. That s/he has not practiced in Nebraska prior to the application for a certificate; or~~
- ~~b. To the actual number of days practiced in Nebraska prior to the application for a certificate; and~~

~~4. The required fee.~~

~~5. The Department will act within 150 days upon all completed applications for certification.~~

~~6. Administrative Penalty/Other Action: An individual who practices prior to issuance of a certificate except as pursuant to 172 NAC 114-005, is subject to assessment of an administrative penalty pursuant to 172 NAC 114-014 or such other action as provided in that statutes and regulations governing the certificate.~~

~~114-005.02 Certification for a Licensed Occupational Therapy Assistant to Apply Superficial Thermal Agent Modalities: A licensed occupational therapy assistant may only obtain a certification to apply superficial thermal agent modalities. The criteria for issuance of a certification to apply superficial thermal agents and the documentation required by the Department and the Board are set forth below.~~

~~114-005.02A Superficial Thermal Agent Modalities: To obtain a certification to apply superficial thermal agents, a licensed occupational therapy assistant must:~~

- ~~1. Successfully complete a minimum of six hours of Board approved training or its equivalent and pass an end-of the course written or computer-based examination approved by the Board which tests competency in the use of superficial thermal agent modalities. The training must include the following:~~
 - ~~a. Biophysical and biophysiological changes which occur with cryotherapy;~~
 - ~~b. Indications, contraindications and precautions for the application of cold agents;~~
 - ~~c. Clinical reasoning involved in the application of cold agents;~~
 - ~~d. Commonly used types of cold agents;~~
 - ~~e. Application procedures for each cold modality;~~
 - ~~f. Definition of the term superficial thermal agent;~~
 - ~~g. Differentiation between the two commonly used methods of heat transfer: conduction and convection;~~
 - ~~h. The four biophysical effects of heat;~~
 - ~~i. The physiologic response to tissue secondary to temperature elevation;~~
 - ~~j. Differentiation between mild, moderate and vigorous dosages of heat;~~
 - ~~k. Indications, precautions, and contraindications that should be considered when using superficial thermal agents;~~
 - ~~l. Proper clinical applications for hot packs, paraffin bath, fluidotherapy, whirlpool, and contrast bath;~~
 - ~~m. Guidelines for educating the client and/or family in the purpose, benefit and potential risk(s) of the modality; and~~
 - ~~n. Universal precautions, sterile techniques, infection control, and the use of modalities; OR~~

- ~~2. Have a minimum of five years of experience in the use of superficial thermal agent modalities and pass the examination approved by the Board on superficial thermal agent modalities pursuant to 172 NAC 114-005.09; OR~~
- ~~3. Successfully complete education during a basic educational program which includes demonstration of competencies for application of superficial thermal agent modalities.~~

~~114-005.02B To obtain superficial thermal agent modality certification, an occupational therapy assistant must submit the following to the Department:~~

- ~~1. A complete application on a form provided by the Department, a copy of which is attached as Attachment D, and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment D or by using an alternate format, which s/he prefers. Only applications which are complete will be considered;~~
- ~~2. Documentation of:
 - ~~a. A course in superficial thermal agent modalities pursuant to NAC 114-005.02A Item 1; OR~~
 - ~~b. A passing score of 75% or better on the Nebraska Physical Agent Modalities Testing Service Examination titled Superficial Thermal Agents Test and completion of Attachment D1, a copy of which is attached and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment D1 or by using an alternate format which s/he prefers. Only applications which are complete will be considered; OR~~
 - ~~c. Successfully completing education during a basic educational program which includes demonstration of competencies for application of the physical agent modality and completion of Attachment D2, a copy of which is attached and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment D2 or by using an alternate format which s/he prefers. Only applications which are complete will be considered.~~~~
- ~~3. Attestation by the applicant:
 - ~~a. That s/he has not practiced in Nebraska prior to the application for a certificate; or~~
 - ~~b. To the actual number of days practiced in Nebraska prior to the application for a certificate; and~~~~
- ~~4. The required fee.~~
- ~~5. The Department will act within 150 days upon all completed applications for licensure.~~
- ~~6. Administrative Penalty/Other Action: An individual who practices prior to issuance of a certificate except as pursuant to 172 NAC 114, is subject to assessment of an~~

~~administrative penalty pursuant to 172 NAC 114-014 or such other action as provided in that statutes and regulations governing the certificate.~~

~~114-005.02C The set up and implementation of a superficial thermal agent modality by an occupational therapy assistant must only be done under the onsite supervision of an occupational therapist certified to administer superficial thermal agent modalities.~~

~~114-005.02D An occupational therapist must not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.~~

~~114-005.03 The Department will issue to each person who meets the requirements for a physical agent modality a certificate to administer physical agent modalities.~~

~~114-005.04 Each certificate holder must keep the credential available in the office or place in which s/he practices, and show proof of the credential upon request.~~

~~114-005.05 The certification to apply physical agent modalities will not expire.~~

~~114-005.06 The Department with the advice of the Board may discipline or deny a certificate for any of the grounds pursuant to 172 NAC 114-008.~~

~~114-005.07 Approval of Physical Agent Modality Courses: For a physical agent modality course to be approved by the Board, the course must meet the requirements pursuant to 172 NAC 114-005.01A Item 1, 172 NAC 114-005.01B Item 1, 172 NAC 114-005.01C Item 1 or 172 NAC 114-005.02A Item 1 and the course provider must submit the following:~~

- ~~1. A complete application on a form provided by the Department, a copy of which is attached as Attachment E, and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment E or by using an alternate format, which s/he prefers. Only applications which are complete will be considered;~~
- ~~2. A course outline that includes the objectives of the course;~~
- ~~3. An example of the end of course examination;~~
- ~~4. Instructor(s) curriculum vitae;~~
- ~~5. A sample of an official certificate of attendance or transcript
The certificate of attendance must be signed by the provider and the certificate or transcript must contain the following information:~~
 - ~~a. Name of course;~~
 - ~~b. Types of modalities that the course covers, i.e. superficial, electrotherapeutic, deep thermal;~~
 - ~~c. Date of course;~~
 - ~~d. Provider of course;~~
 - ~~e. Contact hours completed;~~
 - ~~f. Name of person attending the course;~~
 - ~~g. The score received on the end of course examination; and~~

~~6.A description of the practicum procedures for the deep thermal and electrotherapeutic training, including the tool used to assess the candidate's competency.~~

~~114-005.07A The approval of a course provider found to have issued a certificate of course completion to an individual who did not complete a course will be revoked.~~

~~114-005.07B Providers must agree that employees of the Department and/or its designees, in an official capacity, may audit classroom course instruction, course materials, instructors' presentations, course records, records of examination, attendance rosters and other aspects of instruction. These auditors will not be hindered, obstructed, delayed, prevented or interfered with while conducting or attempting to conduct an audit. Audits will be conducted with a minimum of disruptions. Providers agree that auditors may attend any Board-approved course offered for the purpose of the audit without paying any fee. Providers grant the Department and/or its designees the right to audit records at the premises of the provider or at the physical location of the records.~~

~~114-005.07C Providers must keep all records of attendance, records of examination, course records and requests for duplicate course completion certificates on file for five years. These records must be available to the Department upon request.~~

~~114-005.07D Once approved, a course may not be substantially altered without a new application being submitted to the Board. A substantial alteration is any change that would modify the content or time allocations or would change any of the course topics.~~

~~114-005.07E No course may be advertised or otherwise promoted as appropriate for Nebraska physical agent modality certification until it has been approved by the Board. Advertising a course as being offered for physical agent modality certification before approval of the course is grounds for disqualification as a provider.~~

~~114-005.07F The Board will semiannually develop and revise the list of approved physical agent modality certification courses, beginning with the effective date of these regulations, and will act within 150 days of all approved course applications.~~

~~114-005.07G Approved courses must be open to all licensees.~~

~~114-005.08 Certification Examination: Any occupational therapist or occupational therapy assistant having a minimum of five years of experience with physical agent modalities must pass the certification examination.~~

~~114-005.08A Certification Examination Procedures: The Nebraska Physical Agent Modalities Testing Service examinations will be administered by Physical Agent Modalities Practitioner Credentialing Agency (PAMPCA, LLC), 627 Crofton Park Lane, Franklin TN 37069-6515, (866) 341-4106 or (615) 794-4106. The superficial thermal agents test is the only Examination occupational therapy assistants are eligible to take. To register for an examination, the applicant must register online at www.pampca.org for the Nebraska Physical Agent Modalities Testing Service Examination and select one of the following five testing options:~~

- ~~1. Superficial Thermal Agents Test;~~
- ~~2. Deep Thermal Agents Test;~~
- ~~3. Superficial and Deep Thermal Agents Test;~~
- ~~4. Electrotherapeutic Agents Test; or~~
- ~~5. Comprehensive Physical Agents Modalities Test (includes Superficial, Deep and Electrotherapeutic Agents Tests).~~

~~If an applicant fails to attain a passing score of 75%, the applicant will be allowed to take a second test. If an applicant fails to attain a passing score on the second attempt, the applicant will not be eligible to receive the physical agent modality certification based on five year's experience and will need to obtain their certification through a Board approved training course pursuant to 172 NAC 114-005.07, 172 NAC 114.005.01A, 172 NAC 114-005.01B, 172 NAC 114-005.01C, or 172 NAC 114.005.02A.~~

~~114.005.08B Examination Results: The applicant will receive a letter from PAMPCA informing them of their examination results upon the completion of one or a combination of one of the Nebraska Physical Agent Modalities Testing Service Examinations.~~

~~114-006 REQUIREMENTS FOR CONSULTING WITH OR SUPERVISING AN OCCUPATIONAL THERAPY ASSISTANT: An occupational therapy assistant may assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist.~~

~~114-006.01 If an occupational therapist is supervising or consulting with an occupational therapy assistant, s/he must meet the following standards:~~

- ~~1. Evaluate each patient prior to treatment by the occupational therapy assistant;~~
- ~~2. Develop a treatment plan outlining which elements have been delegated to the occupational therapy assistant;~~
- ~~3. Monitor patient's progress;~~
- ~~4. Approve any change in the occupational therapy treatment plan;~~
- ~~5. Ensure that the occupational therapy assistant is assigned only to duties and responsibilities for which s/he has been specifically trained and is qualified to perform;~~
- ~~6. Review all documentation written by the occupational therapy assistant;~~
- ~~7. Interpret the results of tests which are administered by the occupational therapy assistant; and~~
- ~~8. Evaluate the treatment plan and determine termination of treatment.~~

~~114-006.02 An occupational therapist supervising an occupational therapy assistant must, in addition to the standards pursuant to 172 NAC 114-006.01, provide the following:~~

- ~~1. A minimum of four hours per month of on-site supervision if an occupational therapy assistant has more than one year satisfactory work experience as an occupational therapy assistant; or~~
- ~~2. A minimum of eight hours per month of on-site supervision if an occupational therapy assistant has less than one year satisfactory work experience as an occupational therapy assistant.~~

~~114-006 — RENEWAL REQUIREMENTS FOR OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY ASSISTANT LICENSES: All licenses issued by the Department pursuant to the Act and 172 NAC 114 expire on August 1 of each even-numbered year.~~

~~114-006.01 Renewal Process: Any licensee who wishes to renew his/her license must:~~

- ~~1. Meet continuing education requirements pursuant to 172 NAC 114-010;~~
- ~~2. Pay the renewal fee pursuant to 172 NAC 114-011;~~
- ~~3. Respond to the following questions:~~
 - ~~a. Has your license in any health care profession in another state been revoked, suspended, limited, or disciplined in any manner?~~
 - ~~b. Have you been convicted of a misdemeanor or 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 20 hours of continuing education for Occupational Therapists and 15 hours for Occupational Therapy Assistants, 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.~~

~~114-006.02 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.~~

~~114-006.02A 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 114-011;~~
- ~~6. The number of continuing education hours required for renewal; and~~
- ~~7. The option to place the license on either inactive or lapsed status.~~

~~114-006.02B 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 20 hours of continuing education for Occupational therapists and 15 hours for Occupational Therapy Assistants, 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).~~

~~114-006.02C 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.~~~~

~~114-006.02D 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.~~

~~114-006.03 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 114-006.02 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 114-014 if s/he practices after the expiration date;~~
- ~~4. That upon receipt of the renewal fee, together with the 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 completion of continuing competency requirements, the license will be revoked pursuant to 172 NAC 114-007.~~

~~114-006.04 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 20 hours of continuing education for Occupational Therapists and 15 hours for Occupational Therapy Assistants, 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).—~~

~~114-006.05 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.~~~~

~~114-006.06 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.~~

~~114-006.07 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency requirements 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.~~

~~114-006.08 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of license, unless a waiver of continuing competency requirements is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and/or to pay an additional late fee of \$25, the Department will revoke the license after notice and opportunity for hearing. Hearings held before the Department will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the~~

~~Department.~~

~~114.006.09 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 114-006.07 and NAC 114-006.08 will not apply.~~

~~114.006.10 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, the Rules of Practice and Procedure for the Department.~~

~~114.006.11 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty under 172 NAC 114-014, or such other action as provided in the statutes and regulations governing the credential. —~~

114-007 ROLE DELINEATION FOR OCCUPATIONAL THERAPY ASSISTANT: A licensed occupational therapy assistant may perform the following duties while under the supervision of a licensed occupational therapist or while consulting with a licensed occupational therapist:

1. Explain overall occupational therapy services to client, family, or others who have legitimate interest in the case;
2. Solicit referrals from appropriate sources or acknowledge referrals received before or after initial screening for the purpose of initiating occupational therapy services by:
 - a. Responding to a request for service by relaying information or formal referral to the licensed occupational therapist; and
 - b. Entering cases as appropriate to standards of facility, department and profession when authorized by supervising occupational therapist.
3. Assess the need for, nature of, and estimated time of treatment, determining the needed coordination with other persons involved and documenting the activities by:
 - a. Screening clients to determine client's need for occupational therapy services. This may occur before or after referral by:
 - (1) Obtaining and reviewing written information about the client from medical records, school records, therapist records, etc.;
 - (2) Interviewing client, family, or others with legitimate interest in the case using a structured guide to obtain general history and information about family history, self care abilities, academic history, vocational history, play history, and leisure interest and experiences; and
 - (3) Organizing, summarizing, and recording data collected by occupational therapy assistant and reporting such data to licensed occupational therapist.
 - b. Observing clients while engaged in individual and/or group activity to collect general data and report on independent living/daily living skills, selected sensorimotor skills, cognitive skills, and psychosocial skills;
 - c. Administering standardized and criterion referenced tests as directed by licensed occupational therapist to collect data on independent living/daily living skills and performance, sensorimotor developmental status, and cognitive skills and performance in the area of orientation;
 - d. Summarizing, recording, and reporting own evaluation data to licensed occupational therapist;
 - e. Assisting with the evaluation of the data collected; and

- f. Reporting evaluation data as determined by the licensed occupational therapist to other appropriate persons.
- 4. Assist with the identification and documentation of achievable treatment goals to develop, improve, and/or restore the performance of necessary functions, compensate for dysfunction, and/or minimize debilitation in the areas of:
 - a. Independent living/daily living skills and performance;
 - b. Sensorimotor skills and performance in gross and fine coordination, strength and endurance, range of motion, and tactile awareness;
 - c. Cognitive skills and performance; and
 - d. Psychosocial skills and performance.
- 5. Assist in the identification and documentation of treatment methods by selecting occupational therapy techniques, media, and determining sequence of activities to attain goals in areas designated pursuant to 172 NAC 114-007.04 item 1 by:
 - a. Analyzing activities in reference to client's interests and abilities, major motor processes, complexity, steps involved, and extent to which it can be modified or adapted;
 - b. Adapting techniques/media to meet client need; and
 - c. Discussing occupational therapy treatment plan with client, family, others with legitimate interests and staff.
- 6. Assist with implementation or modification of a treatment plan by the use of specific activities or methods which improve or restore performance of necessary functions; compensate for dysfunction; and/or minimize debilitation. The occupational therapy assistant, under the direction of a licensed occupational therapist, will:
 - a. Engage client in purposeful activity, in conjunction with therapeutic methods, to achieve goals identified in the treatment plan in the following areas:
 - (1) Independent living/daily living skills which include physical, psychological, emotional, work, and play;
 - (2) Sensorimotor components which include neuromuscular, tactile awareness, and postural balance;
 - (3) Cognitive components which include orientation and conceptualization;
 - (4) Therapeutic adaptation which includes orthotics, and assistive/adaptive equipment; and
 - (5) Prevention which includes energy conservation, joint protection/body mechanics, positioning and coordination of daily living skills.
 - b. Orient family and others about the activities being utilized in the treatment plan;
 - c. Provide instruction to client, family, and others with a legitimate interest in how to implement the home program developed by the licensed occupational therapist; and
 - d. Observe medical and safety precautions.
- 7. Assist in determining the need to terminate occupational therapy services when the client has achieved the treatment plan goals and/or has achieved maximum benefit from the services. The following steps must be taken:
 - a. Discuss need for treatment plan discontinuation with licensed occupational therapist;
 - b. Assist in preparing occupational therapy discharge plan by recommending adaptations to client's everyday environment;
 - c. Assist in identifying community resources; and
 - d. Assist in summarizing and documenting outcome of the occupational therapy treatment plan.
- 8. Participate in planning, organizing, and delivery of occupational therapy services by:
 - a. Planning daily schedule according to assigned workload;

- b. Preparing and maintaining work setting, equipment, and supplies;
 - c. Ordering supplies and equipment according to established procedures;
 - d. Maintaining records according to Department procedure;
 - e. Ensuring safety and maintenance of program areas and equipment; and
 - f. Assisting with compiling and analyzing data of total occupational therapy service.
9. An occupational therapy assistant who is licensed by the State of Nebraska and has one year of practice experience can supervise an occupational therapy assistant student.

~~114-007 LICENSURE/CERTIFICATION REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department will revoke a license to practice Occupational Therapy when the licensee fails to meet the renewal requirements.~~

~~114-007.01 Revocation For Non-Payment of Renewal Fee~~

~~114-007.01A When a licensee fails to pay the required renewal fee, to submit documentation of continuing competency requirements 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.~~

~~114-007.01A1 The revocation notice must specify:~~

- ~~1. That the licensee was given a first and final notice of renewal requirements and the respective dates for these notices;~~
- ~~2. That the licensee failed to renew the license and to request that his/her license be placed on inactive or lapsed status;~~
- ~~3. That the Department has revoked the license or certification;~~
- ~~4. That the licensee or certificate holder has a right to appeal the revocation; and~~
- ~~5. That the licensee or certificate holder has a right to reinstatement of the license or certification.~~

~~114-007.02 Revocation for Failure to Meet Continuing Competency Requirements~~

~~114-007.02A When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal or to request that his/her license be placed on either inactive or lapsed status, the Department will revoke his/her license after notice and opportunity for a hearing.~~

~~114-007.02A1 The notice of failure to meet continuing competency requirements must specify that:~~

- ~~1. Licensee was given first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;~~

- ~~2.—Licensee either failed to renew the license or to have his/her license timely placed on inactive or lapsed status;~~
- ~~3.—The Department will revoke the license within 30 days of date of receipt of the notice unless the licensee requests in writing a hearing.~~
- ~~4.—The licensee has a right to appeal the revocation; and~~
- ~~5.—The licensee has a right to reinstatement of the license.~~

114-008 SUPERVISION OF AIDES IN OCCUPATIONAL THERAPY: An aide, as used in occupational therapy practice, is an individual who provides supportive services to the occupational therapist and the occupational therapy assistant. Aides are not primary service providers of occupational therapy in any practice setting. Aides do not provide skilled occupational therapy services. An aide is trained by an occupational therapist or an occupational therapy assistant to perform specifically delegated tasks. The occupational therapist is responsible for the overall use and actions of the aide. An aide first must demonstrate competency to be able to perform the assigned, delegated client and non-client-related tasks.

1. The occupational therapist must oversee the development, documentation, and implementation of a plan to supervise and routinely assess the ability of the occupational therapy aide to carry out client and non-client-related tasks. The occupational therapy assistant may contribute to the development and documentation of this plan.
2. The occupational therapy assistant may supervise the aide.
3. Non-client-related tasks include clerical and maintenance activities and preparation of the work area or equipment.
4. Client-related tasks are routine tasks during which the aide may interact with the client but does not act as a primary service provider of occupational therapy services. Onsite supervision of an aide is required by an occupational therapist or an occupational therapy assistant when an aide is performing all client-related tasks. Onsite supervision of an aide means that the occupational therapist or occupational therapy assistant must be physically present at the practice site to direct all actions when occupational therapy services are being provided.

114-008A The following factors must be present when an occupational therapist or occupational therapy assistant delegates a selected client-related task to the aide:

1. The outcome anticipated for the delegated task is predictable;
2. The situation of the client and the environment is stable and will not require that judgment, interpretations, or adaptations be made by the aide;
3. The aide has demonstrated some previous performance ability in executing the task;
and
4. The task routine and process have been clearly established.

114-008B When performing delegated client-related tasks, the supervisor must ensure that the aide:

1. Is trained and able to demonstrate competency in carrying out the selected task and using equipment, if appropriate;

2. Has been instructed on how to specifically carry out the delegated task with the specific client; and
3. Knows the precautions, signs, and symptoms for the particular client that would indicate the need to seek assistance from the occupational therapist or occupational therapy assistant.

114.008C The supervision of the aide must be documented and include:

1. Information about frequency and methods of supervision used;
2. The content of the supervision; and
3. The names and credential of all persons participating in the supervisory process.

114.008D An occupational therapy aide may not perform evaluation, reevaluation, treatment planning or establish treatment goals.

114-008 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

114-008.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 114-003 or is found to be in violation of any of the provisions pursuant to 172 NAC 114-008.03.

114-008.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 114-006 or in 172 NAC 114-008.03.

114-008.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license, certificate, or registration.
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state.
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01.
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, certificate holder's, or registrant'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 conducts means a continued course of negligent conduct in performing the duties of the profession.

- ~~6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.~~
- ~~7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.~~
- ~~8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate or registration by a person not licensed, certified, or registered to do so.~~
- ~~9. Having had his/her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked, or having had such license, certificate, or registration disciplined in any other manner pursuant to Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice Occupational Therapy, based upon acts by the applicant, licensee, certificate holder, or registrant similar to acts pursuant to 172 NAC 114-008. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence.~~
- ~~10. Unprofessional conduct, which term includes all acts pursuant to Neb. Rev. Stat. § 71-148 and other acts which include but are not limited to:
 - ~~a. Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee, certificate holder, or registrant;~~
 - ~~b. Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured;~~
 - ~~c. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a patient/client;~~
 - ~~d. Obtaining any fee for professional services by fraud, deceit, or misrepresentation including, but not limited to, falsification of third party claim documents;~~
 - ~~e. Cheating on or attempting to subvert the licensing or certification examination;~~
 - ~~f. Assisting in the care or treatment of a patient/client without the consent of such patient/client or his/her legal representative;~~
 - ~~g. The use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a system or mode of healing for which s/he is not licensed, certified, or registered;~~
 - ~~h. Willful betrayal of a professional secret except as otherwise provided by law;~~~~

- ~~i. Making use of any advertising statements of a character tending to deceive or mislead the public;~~
- ~~j. Advertising professional superiority or the performance of professional services in a superior manner;~~
- ~~k. Failure to accurately represent his/her skills to a patient/client;~~
- ~~l. Delegating to other personnel those patient/client related services when the clinical skills and expertise of an occupational therapist is required;~~
- ~~m. Failure to decline to carry out occupational therapy services that have been requested when such services are believed to be contraindicated or unjustified;~~
- ~~n. Committing any act which endangers patient/client safety or welfare;~~
- ~~o. Failure to utilize appropriate judgement in administering safe Occupational Therapy practice;~~
- ~~p. Failure to exercise technical competence in carrying out Occupational Therapy;~~
- ~~q. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;~~
- ~~r. Failure to safeguard the patient's dignity and right to privacy;~~
- ~~s. Violating the confidentiality of information or knowledge concerning the patient;~~
- ~~t. Failure to accurately record and report information or falsification or unauthorized destruction of patient records;~~
- ~~u. Misappropriating supplies or personal items of a patient/client or agency;~~
- ~~v. Exercising undue influence on patients/clients to purchase equipment produced or supplied by a company in which the Occupational Therapist owns stock or has any other direct or indirect financial interest;~~
- ~~w. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;~~
- ~~x. Verbally or physically abusing patients.~~
- ~~y. Sexual Harassment: An Occupational Therapist must not under any circumstances engage in sexual harassment of patients.~~

~~(1) Sexual Harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:~~

- ~~(a) The provision or denial of Occupational Therapy to a patient; or~~
- ~~(b) For the purpose or effect of creating an intimidating, hostile, or offensive environment for the patient or unreasonably interfering with a patient's ability to recover.~~

- ~~z. Violating an assurance of compliance entered into under Neb. Rev. Stat. § 71-171.02;~~

- ~~aa. Failure to conform to the ethics of the profession as specified in the American Occupational Therapy Association's "Code of Ethics", a copy of which is attached hereto as Attachment K, and incorporated in these regulations pursuant to 172 NAC 114;~~

- ~~bb. Failure or departure from the standards of acceptable and prevailing practice in occupational therapy.~~

- ~~11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's, certificate holder's, or registrant'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 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, certificate holder, or registrant is not licensed, certified, or registered to practice.~~

- ~~16. Practicing the profession of Occupational Therapy while his/her license, certificate or registration is suspended or is guilty of practicing such profession while his/her license to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his/her license, certificate, or registration.~~

- ~~17. When the applicant is found to be not qualified to practice the particular profession or occupation for which s/he is applying, or licensed because of physical or mental illness or physical or mental deterioration or disability.~~

- ~~18. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed.~~

~~114-008.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend the license of any licensee other than for non-payment of renewal fee, the applicant or licensee will be given an opportunity for a hearing before the Department and will have the right to present evidence on his/her own behalf. Hearings before the Department will be conducted pursuant to the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.~~

114-009 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the expiration date of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 114-010.03 and 114-010.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

On or before the August 1 of each even numbered year the credential holder must:

1. Complete 20 hours of continuing education during the preceding 24 month period if an occupational therapist;
2. Complete 15 hours of continuing education during the preceding 24 month period if an occupational therapy assistant; and
3. Be responsible for:
 - a. Maintaining until the next renewal period documentation of attendance at, or participation in, continuing education programs/activities and the program outline and/or objectives; and
 - b. Maintaining documentation of presentation of a continuing education program if the licensee is presenting a program.

114-009.01 Acceptable Continuing Education: In order for a continuing education activity to be accepted for renewal or reinstatement of a license, the continuing education activity must relate to occupational therapy and it may focus on research, treatment, documentation, management, or education.

114-009.01A A continuing education activity, except formal and informal self study, student supervision, and participation in research will be acceptable when:

1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the licensee;
2. The objectives of the continuing education activity relate to the practice of occupational therapy;
3. It has a date, location, course title, number of contact hours, signed certificate of attendance and is open to all licensees; and
4. The instructor has specialized experience or training to meet the objectives of the course.

114-009.01B One hour of credit will be awarded for each hour of attendance. Credit will not be awarded for breaks or meals.

114.009.01C The Board does not pre-approve continuing education programs but will

accept as continuing education for renewal of a license or reinstatement of a license the following continuing education activities:

1. Programs at State and National association meetings (for example, a meeting of the Nebraska or other state occupational therapy associations and/or the American Occupational Therapy Association) A licensee's documentation must include a certificate of attendance, and a program outline and/or objectives;
2. Workshops, seminars, webinars and/or conferences where the content of the continuing education activity relates to occupational therapy whether the subject is research, treatment, documentation, or education management, which includes monitored videotapes, and inservice programs. A licensee's documentation must include a certificate of attendance, and a program outline and/or objectives;
3. University or college sponsored courses where the content of the course relates to occupational therapy whether the subject is research, treatment, documentation, education, or management. A licensee must provide documentation of successfully completing the course. A licensee's documentation must include an official transcript, and a program outline and/or objectives;
4. Formal self study where the content of the self study activity relates to occupational therapy whether the subject is research, treatment, documentation, education, or management (for example, videotapes, internet courses, correspondence courses and/or AOTA self studies.) The self-study program must have a testing mechanism. A licensee's documentation must include a certificate of completion, and a program outline and/or objectives;
5. Management courses which pertain to the practice of occupational therapy. An occupational therapist may complete a maximum of ten hours of continuing education utilizing management courses each 24 month renewal period. An occupational therapy assistant may complete a maximum of seven and one half hours of continuing education utilizing management courses each 24 month renewal period. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives;
6. Student supervision by an occupational therapist or occupational therapy assistant. One contact hour is earned for being a primary direct clinical supervisor for each student's entire level II fieldwork experience. Licensee may receive a maximum of two contact hours of continuing education by supervising a student each 24 month renewal period. A licensee's documentation must include a copy of the signature page of the completed fieldwork evaluation form for each supervised student;
7. Participation in research or other scholarly activities that result in professional publication or acceptance for publication that relate to occupational therapy. Four contact hours will be received for each publication. Licensees may earn up to a maximum of ten contact hours of continuing education each 24 month renewal period for authorship, editorship, co-authorship, co-editorship, or all of these, of a juried publication relating to occupational therapy. A licensee's documentation must include a copy of the final publication or verification of publication (for example, title page and table of contents);
8. Informal self study: A licensee may earn up to a maximum of two contact hours of continuing education each 24 month renewal period for completion of the following activities or a combination of such activities:
 - a. Reading related to occupational therapy practice;

- b. Observing other occupational therapists;
- c. Viewing videotapes without a supervisor; and
- d. Quality assurance or peer review studies.

A licensee's documentation when reading or viewing videotapes must include the name of the article, book or videotape and a brief synopsis of what was learned. Documentation, when observing other therapists and participating in quality assurance and peer review studies, must include a statement from the licensee explaining what was learned; and

9. Nationally recognized specialty certification examinations: A licensee will earn 20 contact hours of continuing education each 24 month renewal period for successful completion of a nationally recognized specialty certification examination related to an area of advanced practice in the field of occupational therapy. A licensee's documentation must include a copy of the certification.

114-009.01E One hour credit will be awarded for each hour of scientific presentation by a licensee at workshops, seminars, in-service training, conferences, or guest lectures which relate to the practice of occupational therapy. A licensee may receive continuing education credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program. A licensee may complete a maximum of four hours of continuing education credit for presentations in a 24 month renewal period. A licensee's documentation must include the presentation outline, course objectives, date, location, time, and type of audience.

114-009.01F Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the content does not relate to occupational therapy whether the subject is research, treatment, documentation, education, or management, including but not limited to:

- 1. Medical terminology courses;
- 2. Occupational therapy on-the-job training;
- 3. Occupational therapy orientation programs, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.; or
- 4. CPR or other related training.

~~114-009 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.~~

~~114-009.01 Eligibility~~

~~114-009.01A An individual whose credential has been previously:~~

- ~~1. Placed on lapsed status;~~
- ~~2. Placed on inactive status;~~
- ~~3. Revoked for failure to meet the renewal requirements;~~
- ~~4. Suspended or limited for disciplinary reasons; or~~
- ~~5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;~~

- ~~6. may request, at any time, to be re-credentialed and re-authorized to practice under the credential pursuant to these regulations.~~

~~114-009.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.~~

~~114-009.01C An individual who practices prior to re-credentialing, is subject to:~~

- ~~1. Assessment of an Administrative Penalty pursuant to 172 NAC 114-014; 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.~~

~~114-009.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 114-003.~~

~~114-009.02A if the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 114-014;~~
- ~~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.~~

~~114-009.02B if the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:~~

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

~~114-009.02C The Department will act within 150 days on all completed applications.~~

~~114-009.02D The applicant will be provided with notice and the opportunity for hearing pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 114-009.02A and 172 NAC 114-009.02B are final.~~

~~114-009.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:~~

- ~~1. Meet renewal requirements, including:
 - ~~a. The continuing competency requirements; and~~
 - ~~b. Paying the renewal fee and any other applicable fees;~~~~
- ~~2. Attest:
 - ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.~~~~

~~114-009.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:~~

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

~~114-009.04A If an applicant has practiced while his/her credential was inactive, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 114-014;~~
- ~~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.~~

~~114-009.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:~~

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

~~114-009.04C In either event pursuant to 172 NAC 114-009.04A or 172 NAC 114-009.04B, a notice and the opportunity for hearing will be given to the applicant.~~

~~114-009.04D The Department will act within 150 days on all completed applications.~~

~~114-009.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:~~

- ~~1. Meet the renewal requirements, including:
 - ~~a. The continuing competency requirements; and~~
 - ~~b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;~~~~
- ~~2. Attest:
 - ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential. —~~~~

~~114-009.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:~~

- ~~1. A written application which contains the following information about the applicant:
 - ~~a. Name;~~
 - ~~b. Address;~~
 - ~~c. Social Security Number; and~~
 - ~~d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - ~~e. 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 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.~~
- ~~f. Attestation that the continuing competency requirements for renewal have been met;~~
- ~~2. The renewal fee, the late fee of \$35 and any other applicable fees.~~
- ~~3. Attestation by the applicant:~~
- ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.~~
- ~~(1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 114-014 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 114-009.06B.~~

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

~~114-009.06A 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.~~

~~114-009.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:~~

- ~~1. Reinstatement of the credential: An Administrative Penalty may be assessed pursuant to 172 NAC 114-014 if warranted;~~
- ~~2. If the Department determines that the applicant has committed acts or offenses~~

~~prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:~~

- ~~a. Reinstatement with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 114-014 if warranted; or~~
- ~~b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~114-009.07 Requirements for Reinstatement More Than One Year Following Revocation for failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:~~

- ~~1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - ~~a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and~~
 - ~~b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.~~~~
- ~~2. Meet the renewal requirements, including:
 - ~~a. The continuing competency requirements; and~~
 - ~~b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.~~~~
- ~~3. Attest:
 - ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~~~

~~114-009.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:~~

- ~~1. A petition for reinstatement:
 - ~~a. Stating the reason the petitioner believes his/her credential should be reinstated;~~
 - ~~b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.~~
 - ~~c. Containing the following information about the petitioner:~~~~

~~(1) Name;~~

- ~~(2) Address;~~
 - ~~(3) Social Security Number; and~~
 - ~~(4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;~~

 - ~~(5) A statement describing all:
 - ~~(a) Felony or misdemeanor convictions during the time period since the credential was active;
 - ~~[1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of: _____~~
 - ~~[a] Official Court Record, which includes charges and disposition;~~
 - ~~[b] Arrest records;~~
 - ~~[c] A letter from the petitioner explaining the nature of the conviction;~~
 - ~~[d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - ~~[e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.~~~~
 - ~~(b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - ~~[1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~~~
 - ~~(c) Disciplinary charges pending against any professional credential held by the petitioner.~~~~
 - ~~(6) Attestation that the continuing competency requirements for renewal have been met.~~
- ~~2. The renewal fee, the late fee of \$75 and any other applicable fees.~~
- ~~3. Attestation by the petitioner:~~
- ~~a. a. That s/he has not practiced in Nebraska since s/he last held an active credential;~~
 - ~~or~~
 - ~~b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - ~~(1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 114-014 in which case a notice and opportunity for hearing will be sent to the petitioner.~~
 - ~~(2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 114-009.08F.~~~~

~~114-009.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.~~

~~114-009.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.~~

~~114-009.08C~~ If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

~~114-009.08D~~ Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

~~114-009.08D1~~ The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

~~114-009.08E~~ If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

~~114-009.08F~~ The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

~~114-009.08F1~~ If the Board recommends reinstatement of the credential, the Department may:

- ~~1.~~ Accept the Board's recommendation and grant reinstatement of the credential.
- ~~2.~~ If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
 - ~~a.~~ Deny reinstatement of the credential, or
 - ~~b.~~ Grant reinstatement with terms, conditions, or restrictions.

~~114-009.08F2~~ If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

~~114-009.08F3~~ If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

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

~~114-009.08F4~~ The Department will, within 150 days of receipt of the Board's

~~recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.~~

~~114-009.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~114-009.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:~~

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

~~114-009.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:~~

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

- ~~(5) A statement describing all:~~
- ~~(a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
[1] If the petitioner has been convicted of a felony or misdemeanor provide copies of:
[a] Official Court Record, which includes charges and disposition;
[b] Arrest records;
[c] A letter from the petitioner explaining the nature of the conviction;
[d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
[e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.~~
 - ~~(b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
[1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
 - ~~(c) Disciplinary charges pending against any professional credential held by the petitioner;~~
- ~~(6) Any continuing competency activities.~~
- ~~2. The reinstatement fee of \$75.~~
- ~~3. Attestation by the petitioner, if the credential was revoked or suspended:~~
- ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~
- ~~(1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 114-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.~~
- ~~(2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 114-009.10G.~~

~~114-009.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:~~

- ~~1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.~~
- ~~2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;~~
- ~~3. Require the petitioner to pass a written, oral, or practical examination or any~~

~~combination of such examinations; or~~

~~4. Require the petitioner to complete additional education.~~

~~114-009.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.~~

~~114-009.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.~~

~~114-009.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~

~~114-009.10E 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.~~

~~114-009.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.~~

~~114-009.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.~~

~~114-009.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.~~

~~114-009.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.~~

~~114-009.10G1 If the Board recommends reinstatement of the credential:~~

- ~~1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.~~
- ~~2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - ~~a. The application must include:~~~~

- ~~(1) Name of the petitioner; and~~
~~(2) Signed statement that the petitioner requests the Director to issue the credential 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.~~
- ~~114-009.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:~~
- ~~1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.~~
 - ~~2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.~~
- ~~a. The application must include:~~
- ~~(1) Name of the petitioner; and~~

~~(2) Signed statement that the petitioner requests the Director to issue the credential 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.~~

~~114-009.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~114-009.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time~~

~~114-009.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.~~

~~114-009.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:~~

~~1. A written application which contains the following information about the applicant:~~

- ~~a. Name;~~
 - ~~b. Address;~~
 - ~~c. Social Security Number; and~~
 - ~~d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - ~~e. A statement describing all:
 - ~~(1) Felony or misdemeanor convictions during the time period since the credential was active;
 - ~~(a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - ~~[1] Official Court Record, which includes charges and disposition;~~
 - ~~[2] Arrest records;~~
 - ~~[3] A letter from the applicant explaining the nature of the conviction;~~
 - ~~[4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - ~~[5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.~~~~~~
 - ~~(2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - ~~(a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~~~
 - ~~(3) Disciplinary charges pending against any professional credential held by the applicant.~~~~
- ~~f. Any continuing competency activities.~~
- ~~g. Attest:
 - ~~(1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or~~
 - ~~(2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.~~~~

~~114-009.11A2— If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 114-014;~~
- ~~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.~~

~~114-009.11A3— If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:~~

- ~~1. Initiate disciplinary action against the credential;~~

- ~~2.—Deny the request for restoration of the credential; or~~
- ~~3.—Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~114-009.11A4—In either event pursuant to 172 NAC 114-009.11A2 or 172 NAC 114-009.11A3, a notice and the opportunity for hearing will be given to the applicant.~~

~~114-009.11A5—The Department will act within 150 days on all completed applications.~~

~~114-009.12—Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time~~

~~114-009.12A—Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.~~

~~114-009.12B—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 114-014.~~

~~114-009.13—Credentials Voluntarily Surrendered or Limited Permanently~~

~~114-009.13A—Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.~~

~~114-009.14—Reapplication After Five Years—Revocation: A person whose license has been revoked for non-payment of renewal fees and who has not requested reinstatement within five years of the date of revocation must reapply to the Department.~~

~~114-009.14A—The applicant must meet the requirements for licensure that are in effect at the time of reapplication for licensure pursuant to 172 NAC 114-003; and 172 NAC 114-009.14B. Submit to the Department:—~~

- ~~1.—A complete application for a new license on a form that will be provided by the Department, a copy of which is provided as Attachment A. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers;~~
- ~~2.—Documentation of meeting licensure requirements pursuant to 172 NAC-003; and~~
- ~~3.—The required licensure fee.~~

~~114-010 RENEWAL: An individual who wants to renew his/her occupational therapy license must request renewal as specified in 172 NAC 114-010.02. All occupational therapy licenses issued by the Department will expire on August 1 of each even-numbered year.~~

~~114-010.01 Renewal Notice: At least 30 days before the expiration of a license, the Department will notify each license holder by regular mail to the last known address of record. The renewal notice will include:~~

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

114-010.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or Internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN);
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number;
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 114-009 or has requested a waiver if s/he meets the requirements of 172 NAC 114-010.03 and/or 114-010.04;
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 114-011.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For purposes of Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status may include a copy:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551),

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

3. Fees: The renewal fee according to 172 NAC 2.

114-010.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 114-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

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

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

114-010.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

114-010.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include proof that the credential holder was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or

114-010.04B The licensee has successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy.

114-010.05 Audit Of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

114-010.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

114-010.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

114-010.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes:

1. Copies of certificates of attendance or participation in a continuing education activity;
and
2. Course outlines and/or objectives; or
3. Letters documenting attendance from providers; or
4. Copies of transcripts from educational institutions.

114-010.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

114-010.05E The Department will notify the credential holder upon satisfactory completion of the audit.

114-010.05F The credential of any person who fails to comply with the conditions of the

audit will expire 30 days after notice and an opportunity for a hearing.

114-010.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

114-010.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

114-010.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

114-010.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

114-010.08 Expiration of a Credential: A credential expires if a credential holder fails to:

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

114-010.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

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

114-010.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

114-010.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice occupational therapy terminates.

114-010.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 114-014 or such other action as provided in the statutes and regulations governing the credential.

114-010.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of occupational therapy after failing to renew his/her credential by the

expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 114-013.

114-010.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

114-010.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

114-010.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of occupational therapy, but may represent him/herself as having an inactive credential.

114-010.09C Return to Active Status: A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 114-013.

114-010 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSURE

114-010.01 General Requirements for Licensure: On or before August 1, 2002, and on or before August 1 of each even numbered year thereafter, each occupational therapist and each occupational therapy assistant who is in active practice and in the State of Nebraska must:

1. Complete continuing education hours to renew a license during the preceding 24 month period. Each occupational therapist must complete 20 hours of continuing education and each occupational therapy assistant must complete 15 hours of continuing education during the preceding 24 month period.
2. Be responsible for:
 - a. Maintaining until the next renewal period documentation of attendance at, or participation in, continuing education programs/activities and the program outline and/or objectives; and
 - b. Maintaining documentation of presentation of a continuing education program if the licensee is presenting a program.
3. If applicable, submit an application for waiver of the continuing competency requirement pursuant to 172 NAC 114-010.02.

114-010.01A Acceptable Continuing Education: In order for a continuing education activity to be accepted for renewal or reinstatement of a license, the continuing education activity must relate to occupational therapy and it may focus on research, treatment, documentation, management, or education.

~~114.010.01B~~ A continuing education activity, except formal and informal self study, student supervision, and participation in research will be acceptable when:

- ~~1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the licensee;~~
- ~~2. The objectives of the continuing education activity relate to the practice of occupational therapy;~~
- ~~3. It has a date, location, course title, number of contact hours, signed certificate of attendance and is open to all licensees;~~
- ~~4. The instructor has specialized experience or training to meet the objectives of the course; and~~
- ~~5. One hour of credit will be awarded for each hour of attendance. Credit will not be awarded for breaks or meals.~~

~~114.010.01C~~ The Board does not pre-approve continuing education programs but will accept as continuing education for renewal of a license or reinstatement of a license the following continuing education activities:

- ~~1. Programs at State and National association meetings e.g., a meeting of the Nebraska or other state occupational therapy associations and/or the American Occupational Therapy Association. A licensee's documentation must include a certificate of attendance, and a program outline and/or objectives;~~
- ~~2. Workshops, seminars, and/or conferences where the content of the continuing education activity relates to occupational therapy whether the subject is research, treatment, documentation, or education management, which includes monitored videotapes, and inservice programs. A licensee's documentation must include a certificate of attendance, and a program outline and/or objectives;~~
- ~~3. University or college sponsored courses where the content of the course relates to occupational therapy whether the subject is research, treatment, documentation, education, or management. A licensee must provide documentation of successfully completing the course. A licensee's documentation must include an official transcript, and a program outline and/or objectives;~~
- ~~4. Formal self study where the content of the self study activity relates to occupational therapy whether the subject is research, treatment, documentation, education, or management, e.g. videotapes, internet courses, correspondence courses and/or AOTA self studies. Licensees may complete a maximum of 12 hours of continuing education by self study each 24 month renewal period. The self study program must have a testing mechanism. A licensee's documentation must include a certificate of completion, and a program outline and/or objectives;~~
- ~~5. Management courses which pertain to the practice of occupational therapy an occupational therapist may complete a maximum of ten hours of continuing education utilizing management courses each 24 month renewal period. An occupational therapy assistant may complete a maximum of seven and one half~~

~~hours of continuing education utilizing management courses each 24 month renewal period. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives;~~

- ~~6.—Student supervision by an occupational therapist or occupational therapy assistant. One contact hour is earned for being a primary direct clinical supervisor for each student's entire level II fieldwork experience. Licensee may receive a maximum of two contact hours of continuing education by supervising a student each 24 month renewal period. A licensee's documentation must include a copy of the signature page of the completed fieldwork evaluation form for each supervised student;~~
- ~~7.—Participation in research or other scholarly activities that result in professional publication or acceptance for publication that relate to occupational therapy. Four contact hours will be received for each publication. Licensees may earn up to a maximum of ten contact hours of continuing education each 24 month renewal period for authorship, editorship, co-authorship, co-editorship, or all of these, of a juried publication relating to occupational therapy. A licensee's documentation must include a copy of the final publication or verification of publication e.g., title page and table of contents;~~
- ~~8.—Informal self study: A licensee may earn up to a maximum of two contact hours of continuing education each 24 month renewal period for completion of the following activities or a combination of such activities:
 - ~~a.—Reading related to occupational therapy practice;~~
 - ~~b.—Observing other occupational therapists;~~
 - ~~c.—Viewing videotapes without a supervisor; and~~
 - ~~d.—Quality assurance or peer review studies.~~~~

~~A licensee's documentation when reading or viewing videotapes must include the name of the article, book or videotape and a brief synopsis of what was learned. Documentation, when observing other therapists and participating in quality assurance and peer review studies, must include a statement from the licensee explaining what was learned; and~~

- ~~9.—Nationally recognized specialty certification examinations: A licensee will earn 20 contact hours of continuing education each 24 month renewal period for successful completion of a nationally recognized specialty certification examination related to an area of advanced practice in the field of occupational therapy. A licensee's documentation must include a copy of the certification.~~

~~114-010.01D One hour credit will be awarded for each hour of scientific presentation by a licensee at workshops, seminars, in-service training, conferences, or guest lectures which relate to the practice of occupational therapy. A licensee may receive continuing education credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program. A licensee may complete a maximum of four hours of continuing education credit for presentations in a 24 month renewal period. A licensee's documentation must include the presentation outline, course objectives, date,~~

~~location, time, and type of audience.~~

~~114-010.01E Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the content does not relate to occupational therapy whether the subject is research, treatment, documentation, education, or management, including but not limited to:~~

- ~~1. Medical terminology courses.~~
- ~~2. Occupational therapy on-the-job training.~~
- ~~3. Occupational therapy orientation programs, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.~~
- ~~4. CPR or other related training.~~

~~114-010.02 Waiver of Continuing Competency Requirements: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in part or in total, for any two year licensing period when a licensee submits documentation that circumstances beyond his/her control prevented completion of such requirements.~~

~~114-010.02A Such circumstances must include situations in which:~~

- ~~1. The licensee holds a Nebraska license but is not residing or practicing his/her profession in Nebraska;~~
- ~~2. The licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date;~~
- ~~3. The licensee has submitted proof that he/she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months preceding the license renewal date;~~
- ~~4. The licensee was first licensed within the 24 months immediately preceding the license renewal date;~~
- ~~5. The licensee successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy; and~~
- ~~6. Other circumstances beyond the licensee's control prevented completion of the continuing education requirements.~~

~~114-010.02B Application for Waiver of Continuing Competency Requirements: Any licensee who seeks a 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 complete application for waiver of continuing competency on a form sent by the Department and referred to as Attachment M or at the option of the applicant, s/he may apply by using an alternate format which s/he prefers. Only applications which are complete will be considered, and the application must be received by the Department on or before August 1 of the year the license is due to be renewed; and~~
- ~~2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements pursuant to 172 NAC 114-010.01, item 1 must include the following:~~
 - ~~a. If the licensee holds a Nebraska license but is not residing or practicing in Nebraska, s/he must mark the appropriate response in the waiver section of Attachment M.~~
 - ~~b. If the licensee has served in the regular armed forces of the United~~
 - ~~c. States during part of the 24 month immediately preceding the license renewal date, s/he must mark the appropriate response in the waiver section of Attachment M and submit official documentation stating the dates of such service.~~
 - ~~d. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the continuing competency requirements during the 24 months preceding the license renewal date, s/he must mark the appropriate response in the waiver section of Attachment M 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.~~
 - ~~e. If the licensee was first licensed within 24 months immediately preceding the license renewal date, s/he must mark the appropriate response in the waiver section of Attachment M and list the date said license was issued.~~
 - ~~f. If the licensee successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy, s/he must mark the appropriate response in the waiver section of Attachment M and submit official documentation showing completion of such hours.~~
 - ~~g. If the licensee has other circumstances beyond his/her control that prevented him/her from obtaining the required continuing competency requirements s/he must mark the appropriate response in the waiver section of Attachment M and submit documentation verifying such circumstances.~~

114-010.02C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that

~~circumstances beyond the applicant's control prevented completion of such requirements.~~

~~114-010.02C1 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.~~

~~114-010.02C1a The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal.~~

~~The appeal will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, The Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.~~

~~114-010.02C1b The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.~~

~~114-010.02C2 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.~~

~~114-010.03 Audit of Continuing Competency Requirements: The Board must select, either during or after renewal, in a random manner, a sample of the licensee's renewal applications for audit of continuing competency requirements. Each licensee will be responsible for maintaining in his/her own personal files such certificates or records of credit from continuing education activities received from continuing education providers. Licensees selected for audit will be required to produce documentation of his/her attendance at those continuing education activities including program outline and/or course objectives attested to his/her renewal application.~~

~~114-010.03A The Department will send to each licensee selected a notice of audit.~~

~~114-010.03B When selected for audit, the licensee will provide satisfactory documentation of attendance at or participation in continuing education activities and the program outline and/or objectives attested to on the licensee's affidavit pursuant to 172 NAC 114-010.01 item 2.~~

~~114-010.03C The Board reserves the right to audit the continuing education affidavit of any licensee by notifying the licensee and requesting the licensee to produce within 30 days of mailing, documents verifying attendance at continuing education activities.~~

~~114-010.03D Continuing education for which no documentation is produced will not be included in the calculation of the total number of continuing education hours.~~

~~114-010.03E Failure to comply with the audit may be grounds for non-renewal or revocation of the license.~~

114-011 DISCIPLINARY ACTIONS

~~114-011.01 Grounds for Action Against a Credential: A credential to practice a profession may~~

have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 114-011.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements in advertisements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
14. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. §§ 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;

- 22. Failure to pay an administrative penalty; and/or
- 23. Unprofessional conduct as defined in 172 NAC 114-011.02.

114-011.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts; or
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement.
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the credentialing examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
10. Failure to keep and maintain adequate records of treatment or service;
11. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
12. Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care;
13. Making use of any advertising statements of a character tending to deceive or mislead the public;
14. Advertising professional superiority or the performance of professional services in a superior manner;
15. Failure to accurately represent his/her skills to a patient/client;
16. Delegating to other personnel those patient/client related services when the clinical skills and expertise of an occupational therapist is required;
17. Failure to decline to carry out occupational therapy services that have been requested when such services are believed to be contraindicated or unjustified;
18. Committing any act which endangers patient/client safety or welfare;

19. Failure to utilize appropriate judgment in administering safe Occupational Therapy practice;
20. Failure to exercise technical competence in carrying out Occupational Therapy;
21. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
22. Failure to safeguard the patient's dignity and right to privacy; violating the confidentiality of information or knowledge concerning the patient;
23. Failure to accurately record and report information or falsification or unauthorized destruction of patient records;
24. Misappropriating supplies or personal items of a patient/client or agency;
25. Exercising undue influence on patients/clients to purchase equipment produced or supplied by a company in which the Occupational Therapist owns stock or has any other direct or indirect financial interest;
26. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
27. Verbally or physically abusing patients;
28. Willful betrayal of a professional secret except as otherwise provided by law;
29. Sexual Harassment: An Occupational Therapist must not under any circumstances engage in sexual harassment of patients.
 - a. Sexual Harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:
 - (1) The provision or denial of Occupational Therapy to a patient; or
 - (2) For the purpose or effect of creating an intimidating, hostile, or offensive environment for the patient or unreasonably interfering with a patient's ability to recover.
30. Competence: An occupational therapist or occupational therapy assistant must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of occupational therapy includes but is not limited to performing or agreeing to perform procedures when the procedures are known to be a departure from standard or acceptable and prevailing practice as a hearing instrument specialist, but not to include a single act of ordinary negligence.
31. Practicing the profession of Occupational Therapy while his/her license, certificate or registration is suspended or is guilty of practicing such profession while his/her license to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his/her license, certificate, or registration; or
32. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents.

114-011.03 Temporary Suspension or Limitation

114-011.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 114-011.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The

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

114-011.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

114-011.03C A temporary suspension or temporary limitation of a credential under 172 NAC 114-011.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential holder.

114-011.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

114-011.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

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

114-011.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 114-011.05, the Director may, in addition to any other terms and conditions of that discipline:

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

114-011 SCHEDULE OF FEES: The following fees have been set by the Department.

- ~~1. Initial License Fee: By an applicant for a license to practice as an occupational therapist, the fee of \$75 and the Licensee Assistance Program fee of \$1 per year for each year remaining during the current biennial renewal period.~~
- ~~Initial License Fee: By an applicant for a license to practice as an occupational therapy assistant, the fee of \$65 and the Licensee Assistance Program fee of \$1 per year for each year remaining in the biennial renewal period.~~
- ~~2. Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.~~
- ~~3. Temporary Permit Fee: By an applicant for a temporary permit or extension of a temporary permit to practice as an occupation therapist or an occupation therapy assistant or the fee of \$25.~~
- ~~4. Physical Agent Modalities Fee: By an applicant for certification to apply physical agent modalities:
 - ~~a. Deep Thermal Agents Modality Certification the fee of \$86.~~
 - ~~b. Electrotherapeutic Agents Modality Certification the fee of \$86.~~
 - ~~c. Superficial Thermal Agents Modality Certification the fee of \$86.~~
 - ~~d. A combination of Modalities Certification the fee of \$86.~~~~
- ~~5. License Renewal Fee: By an applicant for a renewal on a biennial basis of a license to practice as an occupational therapist, the fee of \$75 and the License Assistance Program fee of \$2.~~
- ~~6. License Renewal Fee: By an applicant for a renewal on a biennial basis of a license to practice as an occupational therapy assistant, the fee of \$65 and the Licensee Assistance Program fee of \$2.~~
- ~~7. Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.~~
- ~~8. Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.~~
- ~~9. Certification of License/Certificate Fee: For issuance of a certification of an occupational therapy or occupational therapist assistant 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.~~~~
- ~~10. Verification of License/Permit Fee: For issuance of a verification of a license/permit the fee~~

~~of \$5. The verification includes written confirmation as to whether a license or permit was valid at the time the request was made.~~

- ~~11. Duplicate License/Permit Fee: For a duplicate of original license or permit document or reissued license or permit, the fee of \$10.~~
- ~~12. Administrative Fee: For a denied license or permit or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the license/permit fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.~~
- ~~13. Reinstatement Late Fee: For reinstatement of a license or certificate 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.~~~~
- ~~14. Reinstatement Fee: For reinstatement of an Occupational Therapy license following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.~~

~~114-012 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:~~

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

~~114-012.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:~~

- ~~1. An offer made by the credential holder on his/her own volition;~~
- ~~2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;~~

3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

114-012.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

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

114-012.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

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

114-012.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

114-012.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

114-012.06 Reinstatement following voluntary surrender is set out in 172 NAC 114-013
~~114-012 ROLE DELINEATION FOR OCCUPATIONAL THERAPY ASSISTANT: A licensed occupational therapy assistant may perform the following duties while under the supervision of a licensed occupational therapist or while consulting with a licensed occupational therapist:~~

~~114-012.01 Explain overall occupational therapy services to client, family, or others who have legitimate interest in the case;~~

~~114-012.02 Solicit referrals from appropriate sources or acknowledge referrals received before or after initial screening for the purpose of initiating occupational therapy services by:~~

- ~~1. Responding to a request for service by relaying information or formal referral to the licensed occupational therapist; and~~
- ~~2. Entering cases as appropriate to standards of facility, department and profession when authorized by supervising occupational therapist.~~

~~114-012.03 Assess need for, nature of, and estimated time of treatment, determining the needed coordination with other persons involved and documenting the activities by:~~

- ~~1. Screening client to determine client's need for occupational therapy services. This may occur before or after referral by:
 - ~~a. Obtaining and reviewing written information about the client from medical records, school records, therapist records, etc.;~~
 - ~~b. Interviewing client, family, or others with legitimate interest in the case using a structured guide to obtain general history and information about:
 - ~~(1) Family history, self-care abilities, academic history, vocational history, play history, and leisure interest and experiences; and~~~~
 - ~~c. Organizing, summarizing, and recording data collected by occupational therapy assistant and reporting such data to licensed occupational therapist.~~~~
- ~~2. Observing client while engaged in individual and/or group activity to collect general data and report on independent living/daily living skills, selected sensorimotor skills, cognitive skills, and psychosocial skills;~~
- ~~3. Administering standardized and criterion referenced tests as directed by licensed occupational therapist to collect data on independent living/daily living skills and performance, sensorimotor developmental status, and cognitive skills and performance in the area of orientation;~~
- ~~4. Summarizing, recording, and reporting own evaluation data to licensed occupational therapist;~~
- ~~5. Assisting with the evaluation of the data collected; and~~
- ~~6. Reporting evaluation data as determined by the licensed occupational therapist to other appropriate persons.~~

~~114-012.04 Assist with the identification and documentation of achievable treatment goals to:~~

- ~~1. Develop, improve, and/or restore the performance of necessary functions; compensate for dysfunction, and/or minimize debilitation in the areas of:
 - ~~a. Independent living/daily living skills and performance;~~
 - ~~b. Sensorimotor skills and performance in gross and fine coordination, strength and endurance, range of motion, and tactile awareness;~~
 - ~~c. Cognitive skills and performance; and~~
 - ~~d. Psychosocial skills and performance.~~~~

~~114-012.05 Assist in the identification and documentation of treatment methods by:~~

- ~~1. Selecting occupational therapy techniques, and media, and determining sequence of activities to attain goals in areas designated pursuant to 172 NAC 114-012.04 item 1 by:
 - ~~a. Analyzing activities in reference to client's interests and abilities, major motor processes, complexity, steps involved, and extent to which it can be modified or adapted;~~
 - ~~b. Adapting techniques/media to meet client need; and~~
 - ~~c. Discussing occupational therapy treatment plan with client, family, others with legitimate interests and staff.~~~~

~~114-012.06 Assist with implementation or modification of a treatment plan by the use of specific activities or methods which improve or restore performance of necessary functions; compensate for dysfunction; and/or minimize debilitation. The occupational therapy assistant, under the direction of a licensed occupational therapist, will:~~

- ~~1. Engage client in purposeful activity, in conjunction with therapeutic methods, to achieve goals identified in the treatment plan in the following areas:
 - ~~a. Independent living/daily living skills which include physical, psychological, emotional, work, and play;~~
 - ~~b. Sensorimotor components which include neuromuscular, tactile awareness, and postural balance;~~
 - ~~c. Cognitive components which include orientation and conceptualization;~~
 - ~~d. Therapeutic adaptation which includes orthotics, and assistive/adaptive equipment; and~~
 - ~~e. Prevention which includes energy conservation, joint protection/body mechanics, positioning and coordination of daily living skills.~~~~
- ~~2. Orient family and others about the activities being utilized in the treatment plan;~~
- ~~3. Provide instruction to client, family, and others with a legitimate interest in how to implement the home program developed by the licensed occupational therapist; and~~
- ~~4. Observe medical and safety precautions.~~

~~114-012.07 Assist in determining the need to terminate occupational therapy services when the client has achieved the treatment plan goals and/or has achieved maximum benefit from the services. The following steps should be taken:~~

- ~~1. Discuss need for treatment plan discontinuation with licensed occupational therapist;~~
- ~~2. Assist in preparing occupational therapy discharge plan by recommending adaptations to client's everyday environment;~~
- ~~3. Assist in identifying community resources; and~~
- ~~4. Assist in summarizing and documenting outcome of the occupational therapy treatment plan.~~

~~114-012.08 Participate in planning, organizing, and delivery of occupational therapy services by:~~

- ~~1. Planning daily schedule according to assigned workload;~~
- ~~2. Preparing and maintaining work setting, equipment, and supplies;~~
- ~~3. Ordering supplies and equipment according to established procedures;~~
- ~~4. Maintaining records according to Department procedure;~~
- ~~5. Ensuring safety and maintenance of program areas and equipment; and~~
- ~~6. Assisting with compiling and analyzing data of total occupational therapy service.~~

114-013 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

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

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

114-013.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter: The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - a. Social Security Number (SSN); or
 - b. Alien Registration Number (A#); or
 - c. Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - b. If the applicant is an alien or non-immigrant, s/he must submit evidence of lawful presence which may include a copy of:
 - (1) A Green Card otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing

- the same name as the passport;
- (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
- (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
- (2) E-mail address;
- (3) Fax number; and
- d. Must attest that s/he:
- (1) Is of good character;
- (2) Has met the continuing competency requirements specified in 172 NAC 114-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
- (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
- (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 114-011 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
- (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
- (6) For purposes of Neb. Rev. Stat. §38-129:
- (a) A citizen of the United States;
- (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
- (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act; and
2. The following fee(s) as determined by 172 NAC 2:
- a. If the credential is expired or inactive, the reinstatement and renewal fees; or
- b. If the credential was voluntarily surrendered, the renewal fee.

114-013.01A If an applicant has practiced while his/her credential was expired, inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

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

114-013.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

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

3. Reinstate the credential.

114-013.01C The Department will act within 150 days on all completed applications.

114-013.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

114-013.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 172 NAC 114-013.01.

114-013.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement based on the provisions in the order accepting the voluntary surrender.

The applicant must submit to the Board:

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

- (2) E-mail address;
- (3) Fax number; and
- d. Must indicate that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 114-004 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 114-006 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For purposes of Neb. Rev. Stat. §38-129:
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act; and

2. Fees: The renewal fee according to 172 NAC 2.

114-013.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

114-013.3B The Department, with the recommendation of the Board, may:

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

114-013.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 114-013.03B, the Board may:

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

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 114-014, in which case a separate notice of opportunity for hearing will be sent to the applicant.

114-013.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

114-013.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

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

114-013.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

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

the Board.

114-013.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

114-013.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

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

114-013.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

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

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

~~114-013 REQUIREMENTS FOR CONSULTING WITH OR SUPERVISING AN OCCUPATIONAL THERAPY ASSISTANT: An occupational therapy assistant may assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist.~~

~~114-013.01 If an occupational therapist is supervising or consulting with an occupational therapy assistant, s/he must meet the following standards:~~

- ~~1. Evaluate each patient prior to treatment by the occupational therapy assistant;~~
- ~~2. Develop a treatment plan outlining which elements have been delegated to the occupational therapy assistant;~~
- ~~3. Monitor patient's progress;~~
- ~~4. Approve any change in the occupational therapy treatment plan;~~

- ~~5. Ensure that the occupational therapy assistant is assigned only to duties and responsibilities for which s/he has been specifically trained and is qualified to perform;~~
- ~~6. Review all documentation written by the occupational therapy assistant;~~
- ~~7. Interpret the results of tests which are administered by the occupational therapy assistant; and~~
- ~~8. Evaluate the treatment plan and determine termination of treatment.~~

~~114-013.02 An occupational therapist supervising an occupational therapy assistant must, in addition to the standards pursuant to 172 NAC 114-003.01, provide the following:~~

- ~~1. A minimum of four hours per month of on-site supervision if an occupational therapy assistant has more than one year satisfactory work experience as an occupational therapy assistant; or~~
- ~~2. A minimum of eight hours per month of on-site supervision if an occupational therapy assistant has less than one year satisfactory work experience as an occupational therapy assistant.~~

114-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license or certificate credential. Practice without a credential for the purpose of this regulation means practice:

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

114-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license or certificate being credentialed:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
- ~~5.6. Government records indicate that the person was engaged in practice; and~~
- ~~6.7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.~~

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

114-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license or certificate credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, ~~transmit~~ 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-
 - e.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.

114-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

114-015 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

114-016 METHOD OF IDENTIFICATION: Every person credentialed as an occupational therapist or occupational therapy assistant shall make his/her current credential available upon request. The method of identification shall be clear and easily accessed and used by the consumer. All signs, announcements, stationery, and advertisements of occupational therapists or occupational therapy assistants shall identify the profession. The initials OT and OTA are acceptable as minimum identifiers with the addition of R for registered, C for certified and L for licensed as applicable.

Approved by Attorney General: _____ January 3, 2006
Approved by Governor: _____ April 27, 2006
Filed with Secretary of State: _____ May 1, 2006
Effective Date: _____ May 6, 2006

~~Forms A through M may be obtained by contacting the Credentialing Division.~~

DRAFT
January 3, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 114

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