

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

September 25, 2019  
10:00 A.M. Central Time  
Nebraska State Office Building, Lower Level A  
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed adoption of Title 172 Chapter 9 of the Nebraska Administrative Code (NAC) - *Credentials Issued Under the Uniform Credentialing Act*. The proposed new regulation will govern credentials issued for business set out in Nebraska Revised Statute § 38-121. This new chapter will create one uniform set of regulations for business credentials, thereby eliminating the need to duplicate language in each business specific regulatory chapter. The businesses impacted by this new chapter include: body art, cosmetology, emergency medical services, esthetics, funeral directing and embalming, massage therapy, and nail technology. This new chapter of regulations will govern applying for a business credential, renewing and reapplying for a business credential, voluntary surrender or limitation of a business credential, closing a business, and withdrawing an application.

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

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

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

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

## FISCAL IMPACT STATEMENT

Agency: <b>Department of Health and Human Services</b>	
Title: 172	Prepared by: Kris Chiles
Chapter: 9	Date prepared: 5/7/2019
Subject: Business Credentials Issued Under the Uniform Credentialing Act	Telephone: 402-471-0185

Type of Fiscal Impact:

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

Provide an Estimated Cost & Description of Impact: There is no additional cost or impact to state agencies, political subdivisions, or the regulated public.

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 172                    PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 9                    BUSINESS CREDENTIALS ISSUED UNDER THE UNIFORM  
CREDENTIALING ACT

001. SCOPE AND AUTHORITY. These regulations govern credentials to operate a business set out in Nebraska Revised Statute (Neb. Rev. Stat.) § 38-121. Additional requirements are found in the statutes and regulations of the applicable business.

002. DEFINITIONS. The following definitions apply to all regulations governing credentials to operate a business.

002.01 ATTEST OR ATTESTATION. The individual declares that all statements on the application are true and complete.

002.02 COMPLETE APPLICATION. An application that contains all of the information requested on the application, with attestation to its truth and completeness, and submitted with all required fees and documentation.

003. INITIAL BUSINESS CREDENTIAL OR RENEWAL. To obtain a credential to operate a business or to renew a business credential, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the credentialing requirements. A renewal application must be submitted prior to the expiration date.

003.01 REQUIREMENTS AND DOCUMENTATION. All applicants must meet minimum requirements for credentialing and submit documentary proof of same.

003.01(A) CITIZENSHIP OR LAWFUL PRESENCE. The owner, if the owner is a sole proprietor, must submit documentation that he or she meets the requirements set out in Neb. Rev. Stat. §§ 4-108 through 4-111.

003.01(B) CONVICTION INFORMATION. If the applicant is a sole proprietorship and if the owner has ever been convicted of a felony or misdemeanor in Nebraska or in another jurisdiction, submit:

- (i) A copy of the court record related to all misdemeanor and felony convictions, that includes the statement of charges and final disposition, if the conviction(s) occurred in a state other than Nebraska;

- (ii) An explanation of the events leading to the conviction (what, when, where, why) and a summary of actions that the applicant has taken to address the behaviors or actions related to the conviction; and
- (iii) A letter from the applicant's probation officer addressing the terms and current status of the probation, if the applicant is currently on probation.

003.01(C) DRUG OR ALCOHOL RELATED CONVICTIONS. If the applicant is a sole proprietorship and if the owner has ever been convicted of a felony or misdemeanor in Nebraska or in another jurisdiction, to aid in the evaluation of an applicant's drug or alcohol related conviction(s), an applicant may submit evaluation and discharge summaries where drug or alcohol treatment was obtained or required.

003.01(D) OTHER CREDENTIAL INFORMATION. If the applicant is a sole proprietorship and the owner holds a credential in another jurisdiction and that credential has been disciplined, must provide the name of the jurisdiction, credential number, a list of any disciplinary actions taken against the owner's credential, and a copy of the disciplinary action(s), including charges and disposition.

003.01(E) APPLICANT INFORMATION. The applicant must provide the information set out in Neb. Rev. Stat. § 38-130(2) and the following:

- (i) If the owner is a sole proprietor, the social security number (SSN) or Alien Registration Number (A#) of the owner. Some applicants may have both a social security number (SSN) and an Alien Registration Number (A#) and if so, the applicant must report both;
- (ii) The name of the manager, if applicable; and
- (iii) For initial application only, a statement that the applicant has not operated this business at this address in Nebraska before submitting the application; or if the applicant has operated before submitting the application, a statement of the number of days of operation.

004. CREDENTIAL NOT TRANSFERABLE. A business credential is issued only for the premises named in the application and is not transferable or assignable. A change of owner or location terminates the credential.

005. DISCIPLINARY ACTION. A credential to operate a business may be denied, refused renewal, or have other disciplinary measures taken against the credential for grounds specified in Neb. Rev. Stat. § 38-182.

006. VOLUNTARY SURRENDER OR LIMITATION. An owner of a credential to operate a business may offer to voluntarily surrender or limit a business credential issued by the department. The offer must be in writing and include:

- (A) The full name and address of the business;
- (B) The business phone number and e-mail address;
- (C) The business credential(s) and credential number(s) that would be surrendered or limited;
- (D) The desired time frame for offered surrender or limitation:
  - (i) Permanently;
  - (ii) Indefinitely; or

- (iii) Definite period of time (specify):
- (E) The specific reason for offered surrender or limitation of the business credential;
- (F) Any specific terms and conditions that the owner wishes to have the department consider and apply to the offer;
- (G) An attestation that all the information on the offer is true and complete; and
- (H) The owner's signature and date.

007. REAPPLICATION. This section applies to businesses previously credentialed in Nebraska who seek the authority to return to operation in Nebraska with a valid Nebraska credential.

- (A) A business whose credential has expired, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons may apply at any time to the Department for and obtain another credential as specified in 172 NAC 9, Section 003.
- (B) A business whose credential has been voluntarily surrendered for a definite period may apply to obtain another credential after that period of time has elapsed as specified in 172 NAC 9, Section 003.
- (C) A business whose credential has been revoked may apply for another credential as specified in 172 NAC 9, Section 003, only after a period of 2 years has elapsed from the date of revocation.
- (D) A business whose credential has been permanently voluntarily surrendered may not apply for another credential.

008. CLOSING A BUSINESS. When an owner anticipates closing a business, the owner must notify the Department of the closing date.

009. 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 or equivalent signature of the translator. An individual may not translate his or her own documents.

010. WITHDRAWN APPLICATIONS. An applicant for an initial business credential or a renewal of a business credential may request to withdraw the application. The request will be granted when:

- (A) The application is incomplete; or
- (B) The request is received within 5 business days after the receipt of a completed application.

011. FEES. Fees referred to in these regulations are set out in 172 NAC 2.