

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

October 3, 2019  
10:00 a.m. Central Time  
Gold's Building, Room 534  
1033 O Street, Lincoln, Nebraska

The purpose of this hearing is to receive comments on the adoption of amendments to and repeal of the following regulations:

The following regulation is proposed for AMENDMENT:

Title 172 NAC 98 – *Advanced Practice Registered Nurse Licensure*. The proposed changes combine the licensure for all types of advanced practice registered nurses in Nebraska under one chapter for consistency, to include Nurse Practitioners (NPs), Certified Nurse Midwives (CNMs), Certified Registered Nurse Anesthetists (CRNAs), and Clinical Nurse Specialists (CNSs). The proposed changes also remove any repetitive statutory language from the regulations and updates terminology and formatting.

The following regulations are proposed for REPEAL in their entirety. Relevant portions of the current Chapters 100, 103, 104, and 107 are included in the proposed amendments to Chapter 98.

Title 172 NAC 100 – *Advanced Practice Registered Nurse*  
Title 172 NAC 103 – *Practice of Certified Registered Nurse Anesthetists*  
Title 172 NAC 104 – *Practice of Certified Nurse Midwives*  
Title 172 NAC 107 – *Clinical Nurse Specialists*

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, 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: Ann Oertwich, RN
Chapter: 98	Date prepared: 06/27/2019
Subject: Regulations governing Advanced Practice Registered Nurse licensure	Telephone: 402-471-0317

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: None

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 172            PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 98        ADVANCED PRACTICE REGISTERED NURSE LICENSURE

001. SCOPE AND AUTHORITY. These regulations govern the licensure of advanced practice registered nurses in the State of Nebraska. Statutory authority for these regulations is in the Advanced Practice Registered Nurse Licensure Act, the Certified Nurse Midwifery Practice Act, the Clinical Nurse Specialist Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Nurse Practitioner Act and the Uniform Credentialing Act.

002. DEFINITIONS. Definitions are set out in the Certified Nurse Midwifery Practice Act, the Clinical Nurse Specialist Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Nurse Practitioner Act, the Uniform Credentialing Act, 172 Nebraska Administration Code (NAC) 10, and this chapter.

002.01 ADVANCED PRACTICE REGISTERED NURSE (APRN). A registered nurse who holds a current advanced practice registered nurse license as a certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner.

002.02 ADVANCED PRACTICE REGISTERED NURSE – CERTIFIED NURSE MIDWIFE (APRN-CNM). A registered nurse who holds a current advanced practice registered nurse license as a certified nurse midwife and as defined in Nebraska Revised Statute (Neb. Rev. Stat.) § 38-606.

002.03 ADVANCED PRACTICE REGISTERED NURSE – CLINICAL NURSE SPECIALIST (APRN-CNS). A registered nurse who holds a current advanced practice registered nurse license as a clinical nurse specialist and as defined in Neb. Rev. Stat. § 38-905.

002.04 ADVANCED PRACTICE REGISTERED NURSE – CERTIFIED REGISTERED NURSE ANESTHETIST (APRN-CRNA). A registered nurse who holds a current advanced practice registered nurse license as a certified registered nurse anesthetist and as defined in Neb. Rev. Stat. § 38-704.

002.05 ADVANCED PRACTICE REGISTERED NURSE – NURSE PRACTITIONER (APRN-NP). A registered nurse who holds a current advanced practice registered nurse license as a nurse practitioner and as defined in Neb. Rev. Stat. § 38-2312.

002.06 APPROVED ADVANCED PRACTICE REGISTERED NURSE EDUCATION PROGRAM. A graduate-level program for advanced practice nursing accredited by a national accrediting body recognized by the United States Department of Education.

002.07 APPROVED CERTIFYING BODY. An approved certifying body is a national certification organization which certifies qualified registered nurses in advanced practice for a role with 1 or more population foci which determines and sets certification requirements and provides testing.

002.08 CERTIFICATION. A status granted, initially by examination, by an approved certifying body for an advanced practice registered nurse role with 1 or more population foci.

002.09 NURSYS™. The national database for verification of nurse licensure, discipline and practice privileges for registered nurses, licensed practical nurses licensed in participating jurisdictions, including all states in the Nurse Licensure Compact.

002.10 REENTRY PROGRAM. A board approved program that provides an organized approach to learning that results in current knowledge applicable to an advanced practice nursing role. The program must include a didactic component with education in pharmacotherapeutics and advanced assessments, as well as supervised clinical practice.

003. LICENSURE. Requirements for licensure as an advanced practice registered nurse include requirements found in 172 NAC 10, and the following:

- (A) Apply for state licensure as a registered nurse or hold a valid multi-state privilege from another compact state;
- (B) Submit an official transcript documenting completion of an approved advanced practice registered nursing education program;
- (C) Submit formal documentation of having passed a board approved certification examination;
- (D) Complete a NURSYS™ verification for all current and prior licenses or request verifications from state licensing boards not participating in NURSYS™;
- (E) For initial licensure as an advanced practice registered nurse – nurse practitioner, an attestation of existence of a transition to practice agreement as defined in Neb. Rev. Stat. § 38-2322; and
- (F) For initial licensure as an advanced practice registered nurse – certified nurse midwife, a written practice agreement with a collaborating licensed practitioner as defined in Neb. Rev. Stat. § 38-609 must be on file with the Department.

004. TEMPORARY LICENSE. The temporary advanced practice registered nurse license will be issued for 60 days or until the expiration date of the current nursing license in the other state, whichever occurs first. The temporary license becomes null and void when the regular license is issued or when a final decision is made to deny the regular license.

004.01 ACTIVE LICENSE OR COMPACT PRIVILEGE REQUIREMENT. A temporary advanced practice registered nurse license cannot be issued unless the applicant has an active Nebraska registered nursing license or compact privilege to practice in this state.

004.02 REENTRY PROGRAM. A temporary advanced practice registered nurse license may be issued for the purposes of completing a reentry program in advanced practice nursing, for the length of time it takes to complete the course.

005. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10. All advanced practice registered nurse licenses expire on October 31 of each even-numbered year.

006. CONTINUING COMPETENCY. Each person holding an active advanced practice registered nursing license in the State of Nebraska must, on or before the date of expiration of the license, comply with the continuing competency requirements as noted in Neb. Rev. Stats. §§ 38-616, 38-709, 38-909, and 38-2319, unless the requirements are waived in accordance with 172 NAC 10. Evidence of continuing competency for the advanced practice registered nurse includes:

006.01 CERTIFICATION. Requirements for initial and ongoing certification are specified by the certifying body; and

006.02 PRACTICE. Advanced practice registered nurse – nurse practitioners must attest to 2,080 hours of practice over the 5 years preceding renewal as specified in Neb. Rev. Stat. § 38-2319.

007. REINSTATEMENT. The applicant must meet the requirements set out in 172 NAC 10.

008. FEES. Fees are set out in 172 NAC 2.

EFFECTIVE ~~8/8/07~~ NEBRASKA DEPARTMENT OF ~~HEALTH AND HUMAN SERVICES~~ APRN ~~172 NAC 98~~

TITLE 172 ~~PROFESSIONAL AND OCCUPATIONAL LICENSURE~~

CHAPTER 98 ~~ADVANCED PRACTICE REGISTERED NURSE LICENSURE~~

~~98-001 SCOPE AND AUTHORITY: These regulations govern the licensure of advanced practice registered nurses in the State of Nebraska. Statutory authority for these regulations is in the Advanced Practice Registered Nurse Licensure Act, the Nurse Licensure Compact, and the Uniform Licensing Law.~~

~~98-002 DEFINITIONS~~

~~APRN (Advanced Practice Registered Nurse) means a registered nurse who holds a current APRN license as a Certified Nurse Midwife, Certified Registered Nurse Anesthetist, Clinical Nurse Specialist, or Nurse Practitioner.~~

~~APRN-CNM means a registered nurse who holds a current APRN license as a Certified Nurse Midwife.~~

~~APRN-CNS means a registered nurse who holds a current APRN license as a Clinical Nurse Specialist.~~

~~APRN-CRNA means a registered nurse who holds a current APRN license as a Certified Registered Nurse Anesthetist.~~

~~APRN-NP means a registered nurse who holds a current APRN license as a Nurse Practitioner.~~

~~Board means the Board of Advanced Practice Registered Nurses.~~

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

~~Expired license means a license whose expiration date has passed.~~

~~Inactive license means a license which the license holder has voluntarily placed on inactive status. An individual with an inactive license has terminated the right to practice or represent himself or herself as having an active license.~~

~~Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.~~

### 98-003 SCHEDULE OF FEES

98-003.01 ~~The following fees must be paid as a condition of issuance of licensure.~~

~~1. Initial License Fee: By an applicant for a license to practice as an APRN-CNM, APRN-CNS, APRN-CRNA, or APRN-NP, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1 for each year remaining in the current biennial renewal period.~~

~~a. Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, the Department will collect \$25 and the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.~~

~~2. License Renewal Fee: By an applicant for renewal of a license to practice as an APRN-CNM, APRN-CNS, APRN-CRNA, or APRN-NP, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$2.~~

~~3. Fee for Reinstatement from Expired or Inactive Status: By an applicant for reinstatement from expired or inactive status of a license to practice as an APRN-CNM, APRN-CNS, APRN-CRNA, or APRN-NP, the fee of \$35 in addition to the renewal fee.~~

~~4. Fee for Reinstatement Following Discipline: For reinstatement following suspension or revocation for disciplinary reasons, the fee of \$75.~~

~~5. Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:~~

- ~~a. The basis on which the 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.~~

~~6. Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether the license was valid at the time the request was made.~~

~~7. Duplicate License Fee: For a duplicate of an original license document or reissued license, a fee of \$10.~~

~~8. Administrative Fee: For a denied license or a withdrawn application, an administrative fee of \$25 will be retained by the Department.~~

~~98-004 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practiced without a license. Practice without a license for the purpose of this regulation means practice:~~

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

~~98-004.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:~~

- ~~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 engaging in practice;~~
- ~~3. Billing or payment records document the provision of service, care, or treatment by the person;~~
- ~~4. Service, care, or treatment records document the provision of service, care, or treatment by the person;~~
- ~~5. Appointment records indicate that the person was engaged in practice; or~~
- ~~6. The person opens a practice site and announces or advertises that the site is open to provide service, care, or treatment.~~

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

~~98-004.02 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. To assess such penalty, the Department will:~~

- ~~1. Provide written notice of the assessment to the person. The notice will specify:
  - ~~a. The total amount of the administrative penalty;~~
  - ~~b. The evidence on which the administrative penalty is based;~~
  - ~~c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;~~
  - ~~d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and~~
  - ~~e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state~~~~



~~in the District Court of the county in which the violator resides or owns property.~~

- ~~2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.~~

~~98-004.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the state Administrative Procedure Act and the Department's Rules of Practice and Procedure.~~

~~98-005 LAPSE OF APRN LICENSE: An APRN's license will lapse if s/he does not renew his or her license to practice as a registered nurse or is not authorized to practice as a registered nurse in this state under the Nurse Licensure Compact.~~

TITLE 172 - PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 100 - (Repealed)

TITLE 172 - PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 103 - (Repealed)

TITLE 172 - PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 104 - (Repealed)

TITLE 172 - PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 107 - (Repealed)