

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

October 9, 2019
1:00 p.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 chapter is proposed for AMENDMENT:

172 NAC 29 – *Licensure of Chiropractors/Chiropractic Physicians.*

The proposed changes removes all duplicative statutory language from the regulations and removes any repetitive regulatory language found in 172 NAC 10. The proposed changes will also update definitions; update eligibility for the practical examination; clarify the use of unlicensed personnel by licensed chiropractors; clarify activities considered unprofessional conduct; and add language to address the use of diagnostic testing and acupuncture by a chiropractor.

The following regulation is proposed for REPEAL in its entirety. The relevant portions of this chapter are being included in the proposed amendments to Chapter 29.

172 NAC 30 – *Regulation Defining and Governing the Use of Routine Procedure by Chiropractors.*

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: Department of Health and Human Services	
Title: 172	Prepared by: Claire Covert-ByBee
Chapter: 29	Date prepared: 05/17/2019
Subject: Chiropractic	Telephone: 402-471-0547

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:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

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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:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 172 ~~PROFESSIONAL AND OCCUPATIONAL LICENSURE~~

CHAPTER 29 ~~LICENSURE OF CHIROPRACTORS/CHIROPRACTIC PHYSICIANS~~

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

~~29-002 DEFINITIONS~~

Accountability means being responsible and answerable.

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

Accredited College of Chiropractic means:

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

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

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

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

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

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

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

Board means the Board of Chiropractic.

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

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

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

Chiropractic service means:

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

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

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

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

~~Complex tasks means those tasks that require:~~

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

~~Confidential information means information protected as privileged under applicable law.~~

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

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

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

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

~~Credential means a license, certificate, or registration.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~Supervision means the provision of oversight and includes maintaining accountability to determine whether or not chiropractic care is adequate and delivered appropriately. Supervision~~

~~includes the assessment and evaluation of client/patient condition and responses to the chiropractic plan of care, and evaluation of the competence of persons providing chiropractic care.~~

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

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

29-003 INITIAL CREDENTIAL

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

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

- ~~National Board of Chiropractic Examiners with a scaled score of at least 375 in each part; and~~
- ~~(3) The National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375;~~
- d. ~~For applicants currently licensed in another jurisdiction, but are not practicing at the time of application:~~
- ~~(1) The examination set out in 172 NAC 29-003.01, item 4.a; or~~
- ~~(2) Parts I, II and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part; and~~
- ~~(3) The National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the two years immediately preceding the application; and~~
- ~~(4) Completed 36 hours of continuing education pursuant to 172 NAC 29-006.02, within 24 months prior to making application.~~

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

1. ~~Written Application:~~
- a. ~~Personal Information:~~
- ~~(1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;~~
- ~~(2) Date of birth (month, day, and year);~~
- ~~(3) Place of birth (city and state or country if not born in the United States);~~
- ~~(4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);~~
- ~~(5) The applicant's:~~
- ~~(a) Social Security Number (SSN);~~
- ~~(b) Alien Registration Number (A#); or~~
- ~~(c) Form I-94 (Arrival-Departure Record) number.~~
- ~~Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.~~
- ~~(6) The applicant's telephone number including area code (optional);~~
- ~~(7) The applicant's e-mail address (optional);~~
- ~~(8) The applicant's fax number (optional);~~
- ~~(9) The applicant must answer the following questions. If the answer is yes, the applicant must submit an explanation for each affirmative answer.~~

- ~~(a) Have you ever had any application for any professional license refused or denied by any licensing authority?~~
 - ~~(b) Have you ever been disciplined by an employer that resulted in your inability to work?~~
 - ~~(c) To your knowledge have any unresolved or pending complaints ever been filed against you with any chiropractic licensing agency, professional association, licensed hospital or clinic?~~
 - ~~(d) Are you being treated or have you been treated, in the last five (5) years, for drug or alcohol addiction or participated in rehabilitation?~~
 - ~~(e) Have you ever been disciplined for practicing as a chiropractor when your physical or mental abilities were impaired by the use of controlled substances or other habit forming drugs, chemicals, or alcohol or by other causes?~~
 - ~~(f) Have you ever been named as a defendant to a civil suit related to the practice of chiropractic that resulted in a settlement or judgment?~~
 - ~~(g) Are you being treated or have you been treated in the last five (5) years, for any disease or condition that interfered with your ability to competently and safely perform the essential functions of a chiropractor, including any disease or condition generally regarded as chronic and/or infectious by the medical community?~~
 - ~~(h) Has your license in any health care profession in another state been revoked, suspended, limited or disciplined in any manner?~~
 - ~~(i) Have you ever been denied a license or the right to take an examination?~~
 - ~~(j) Have you ever been licensed as a chiropractor in another state?~~
- ~~b. Practice Before Application: The applicant must state:~~
- ~~(1) That s/he has not practiced chiropractic in Nebraska before submitting the application; or~~
 - ~~(2) If s/he has practiced chiropractic in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice; and~~
- ~~c. Attestation: The applicant must attest that:~~
- ~~(1) S/he has read the application or has had the application read to him/her;~~
 - ~~(2) All statements on the application are true and complete;~~
 - ~~(3) S/he is of good character;~~
 - ~~(4) S/he has not committed any act that would be grounds for denial under 172 NAC 29-008 or if an act(s) was committed,~~

provide an explanation of all such acts; and

(5) ~~S/he is:~~

(a) ~~For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and~~

(b) ~~For purposes of Neb. Rev. Stat. § 38-129:~~

(i.) ~~A citizen of the United States;~~

(ii) ~~An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or~~

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

2. ~~Documentation: The applicant must submit the following documentation with the application:~~

a. ~~Evidence of age, such as:~~

(1) ~~Driver's license;~~

(2) ~~Birth certificate;~~

(3) ~~Marriage license that provides date of birth;~~

(4) ~~Transcript that provides date of birth;~~

(5) ~~U.S. State identification card;~~

(6) ~~Military identification; or~~

(7) ~~Other similar documentation;~~

b. ~~Evidence of good character, including:~~

(1) ~~Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;~~

(2) ~~Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;~~

(3) ~~Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;~~

(4) ~~Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:~~

(a) ~~A list of any misdemeanor or felony convictions;~~

(b) ~~A copy of the court record, which includes charges and disposition;~~

(c) ~~Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a~~

- ~~summary of actions the applicant has taken to address the behaviors/actions related to the convictions;~~
- ~~(d) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;~~
 - ~~(e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and~~
 - ~~(f) Any other information as requested by the Board/Department;~~
- ~~c. Evidence that the applicant is:~~
- ~~(1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act; and~~
 - ~~(2) For purposes of Neb. Rev. Stat. § 38-129, a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.~~
- ~~d. Evidence of citizenship, lawful presence or immigration status may include a copy of:~~
- ~~(1) A U.S. Passport (unexpired or expired);~~
 - ~~(2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;~~
 - ~~(3) An American Indian Card (I-872);~~
 - ~~(4) A Certificate of Naturalization (N-550 or N-570);~~
 - ~~(5) A Certificate of Citizenship (N-560 or N-561);~~
 - ~~(6) Certification of Report of Birth (DS-1350);~~
 - ~~(7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);~~
 - ~~(8) Certification of Birth Abroad (FS-545 or DS-1350);~~
 - ~~(9) A United States Citizen Identification Card (I-197 or I-179);~~
 - ~~(10) A Northern Mariana Card (I-873);~~
 - ~~(11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;~~
 - ~~(12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;~~
 - ~~(13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or~~
 - ~~(14) A Form I-94 (Arrival-Departure Record);~~
- ~~e. Documentation of education, including:~~
- ~~(1) Name and date of degree awarded;~~
 - ~~(2) Name of the accredited chiropractic school, college or~~

- ~~_____~~ university that awarded the degree; and
- ~~(3) _____~~ Official transcript.
- f. ~~_____~~ Documentation of examination, including:
 - ~~(1) _____~~ Name of examination;
 - ~~(2) _____~~ Date of examination; and
 - ~~(3) _____~~ Scores received; and
- g. ~~_____~~ Documentation that the applicant:
 - ~~(1) _____~~ Requested that the examination scores be sent directly to the Department from the National Board of Chiropractic Examiners;
 - ~~(2) _____~~ Requested that the transcript from an accredited chiropractic program or institution showing the graduation date be sent directly to the Department; and
 - ~~(3) _____~~ Submitted any other documentation as requested by the Board/Department.
- h. ~~_____~~ Documentation of licensure in another jurisdiction, including:
 - ~~(1) _____~~ Certification from the other jurisdiction(s) verifying licensure, including:
 - ~~(a) _____~~ Date of initial licensure
 - ~~(b) _____~~ The name of the examination on which licensure was based;
 - ~~(c) _____~~ The score attained on the examination;
 - ~~(d) _____~~ Date of the examination;
 - ~~(e) _____~~ Name of accredited program that the applicant presented a transcript from;
 - ~~(f) _____~~ The nature of disciplinary actions, if any, taken against the applicant's credential; and
 - ~~(2) _____~~ The dates and locations of practice prior to the date of the application.
- i. ~~_____~~ Documentation of continuing competency if licensed in another jurisdiction but not practicing: Submit certificates of attendance verifying the 36 hours of continuing education pursuant to 172 NAC 29-006; and

3. ~~_____~~ Fee: The applicant must submit the required license fee along with the application and all required documentation.

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

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

~~29-003.04 Denial of Initial Credential:~~ If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of

~~a credential as listed in 172 NAC 29-008, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.~~

~~29-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.~~

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

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

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

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

29-004 PRACTICAL EXAMINATION ELIGIBILITY

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

~~29-004.02 To apply to take the practical examination, an applicant must contact the National Board of Chiropractic Examiners, 901 54th Avenue, Greeley, Colorado, 80634, 800-964-6223.~~

29-005 USE OF UNLICENSED PERSONNEL

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

and the client/patient's condition, ability and willingness to be involved in the management of his/her own care.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~29-005.06A1a Protocols must:~~

- ~~1. Be written;~~

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

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

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

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

~~29-006 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 29-007.03 and 172 NAC 29-007.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.~~

~~29-006.01 General Requirements for Licensee: On or before August 1 of each even-numbered year, each Nebraska-licensed chiropractor/chiropractic physician who has an active license must:~~

- ~~1. Complete 36 hours of acceptable continuing education during the preceding 24 month period as specified below. The 36 hours must include:
 - ~~a. Four hours related to technical skills in one or a combination of the following categories:
 - ~~(1) Continuing education designed to enhance the practitioner's~~~~~~

- technical and clinical skill related to x-ray physics, quality control, x-ray production, and interpretation of diagnostic imaging; and/or
- (2) Continuing education designed to enhance the practitioner's skill in utilizing chiropractic adjustive technique; and
- b. Four hours related to practice issues in one or a combination of the following categories as determined by the Board:
- (1) Continuing education pertaining to HIV/AIDS, infectious diseases and related conditions as they relate to chiropractic;
 - (2) Continuing education designed to enhance the practitioner's awareness of gender sensitivity and sexual harassment issues. These programs are commonly referred to as boundary training;
 - (3) Continuing education related to the chiropractic scope of practice in the State of Nebraska. The programs must include adopted practice guidelines and practice law specific to Nebraska only;
 - (4) Continuing education designed to enhance the practitioner's skill related to ordering laboratory tests and interpreting information from laboratory tests;
 - (5) Continuing education designed to enhance the practitioner's skill in performing physical, neurological, and orthopedic examination procedures as they relate to chiropractic practice;
 - (6) Continuing education related to prevention of fraud, system set-ups, coding, quality control, and standards of practice;
 - (7) Continuing education pertaining to the provision of rehabilitative care as it relates to chiropractic practice;
 - (8) Continuing education related to practice ethics as recognized by state or national associations; and
 - (9) Continuing education related to the use of unlicensed personnel.
2. Be responsible for maintaining until the next renewal period:
- a. Documentation of attendance at, or participation in, continuing education programs/activities. Documentation must include:
 - (1) Signed certificate; and
 - (2) Course brochure or course outline; and/or
 - b. If the licensee is presenting a program, documentation of the continuing education program. Documentation must include:
 - (1) Course outline; and
 - (2) Course brochure;
 - (3) Statement of instructor's qualifications to teach the course, unless the qualifications are included in the brochure; and
3. If applicable, submit an application for waiver of the education requirement pursuant to 172 NAC 29-007.03 and 29-007.04.
- ~~29-006.01A~~ An individual will not receive more than eight hours of continuing education credit for any one day of attendance.
- ~~29-006.01B~~ The Board will notify all Nebraska licensed chiropractors/chiropractic physicians, in active practice by the first working day after August 1 of each even-numbered year, of the categories and number of hours in each category that must be

obtained from those items listed in 172 NAC 29-006.01, item 1.b. but not exceeding a total of four hours.

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

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

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

~~29-006.02A1 One hour of credit will be awarded for each hour of attendance. Only the portion of the meeting which meets the definition of continuing education may be used for credit. Partial credit may be awarded to the licensee for the hours attended. Credit will not be awarded for breaks or meals.~~

~~29-006.02B Continuing Education Program/Activity: The following is a list of acceptable continuing education programs/activities and the required documentation specified for each.~~

- ~~1. Programs at State and National Association meetings (for example, a meeting of the Nebraska Chiropractic Physicians Association or~~

~~other state chiropractic associations and/or the American Chiropractic Association or the International Chiropractic Association (ICA) or similar organizations). Documentation must include:~~

- ~~a. A certificate of attendance; and~~
- ~~b. The program outline and/or objectives.~~
- ~~2. Workshops, seminars, and/or conferences where the content of the continuing education activity relates to the practice of chiropractic. Documentation must include:~~
 - ~~a. A certificate of attendance; and~~
 - ~~b. The program outline and/or objectives.~~
- ~~3. Formal education courses given at accredited institutions of higher education which relate directly to the practice of chiropractic. No more than 15 hours of continuing education credit will be awarded by the Board for each semester hour earned. Documentation must include:~~
 - ~~a. An official transcript;~~
 - ~~b. The program outline and/or objectives; and~~
 - ~~c. Documentation of successful completion of the course.~~
- ~~4. Programs approved by Providers of Approved Continuing Education (PACE) sponsored by the Federation of Chiropractic Licensing Boards (FCLB). Documentation must include:~~
 - ~~a. A certificate of attendance; and~~
 - ~~b. The program outline and/or objectives.~~
- ~~5. Formal self study where the self study activity content relates to the practice of chiropractic, (for example, videotapes, internet courses, CDs and correspondence courses). Licensees may complete a maximum of 6 hours of continuing education by self study each 24 month renewal period. The self study program must have a testing mechanism scored by the provider of the self study activity. The mandatory continuing education hours pursuant to 172 NAC 29-006.01, item 1 (a-b) may not be obtained by completing formal self study activities. Documentation must include:~~
 - ~~a. The program outline and/or objectives; and~~
 - ~~b. Certificate of completion.~~
- ~~6. Subject matter acceptable for continuing education credit includes, but is not limited to, acupuncture, philosophy, and nutrition.~~

~~29-006.03 A licensee who is a presenter of a continuing education program may receive credit for the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program.~~

~~29-006.04 Examples of nonacceptable subject matter include, but are not limited to, practice promotion.~~

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

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

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

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

- ~~1. Application:~~ The applicant on his/her application:
 - ~~a. Must provide the following information:~~
 - ~~(1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;~~
 - ~~(2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);~~
 - ~~(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;~~
 - ~~(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 29-006 or has requested a waiver if s/he meets the requirements of 172 NAC 29-007.03 and/or 29-007.04; and~~
 - ~~(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 29-008.01, 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 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);~~
 - ~~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 name of the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;~~
 - ~~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 a credentialing examination, an explanation of the basis for the denial;~~
 - ~~e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:~~
 - ~~(1) A list of any misdemeanor or felony convictions;~~
 - ~~(2) A copy of the court record, which includes charges and disposition;~~
 - ~~(3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;~~
 - ~~(4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required;~~

- ~~(5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and~~
- ~~(6) Any other information as requested by the Board/Department;~~
- ~~_____ And~~

~~3. The renewal fee according to 172 NAC 2.~~

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

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

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

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

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

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

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

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

credential holder from the requirement for audit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~29-007.09C Return to Active Status:~~ A credential may remain on inactive status for an indefinite period of time. An individual who wants to have his/her credential

returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 29-010.

29-008 DISCIPLINARY ACTIONS

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

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

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

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

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

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

~~_____~~ behavior which a reasonable person would find to be sexually seductive or
~~_____~~ sexually demeaning and may or may not include sexual contact.

~~_____~~ 17. Advertising, Publicity and Solicitation:

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

The term "solicit" includes contact in person or by telephone, directed to a specific recipient.

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

- ~~k. On the front of each envelope in which an advertisement of a chiropractor/chiropractic physician is mailed or delivered on or the front of each post card, if the advertisement is printed on a post card, must be the words: "This is an advertisement." These words must be printed in type size at least as large as the print of the address and must be located in a conspicuous place on the envelope or card;~~
- ~~l. An advertisement or written communication of a chiropractor/chiropractic physician seeking professional employment by a specific potential patient cannot reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the potential patient's medical problem;~~

- ~~18. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;~~
- ~~19. Failure to safeguard the patient's dignity and right to privacy;~~
- ~~20. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;~~
- ~~21. Practicing chiropractic in this state without a current Nebraska license; and~~
- ~~22. Failure to comply with a patient's authorization to provide records pursuant~~

to

~~Neb. Rev. Stat. §§ 71-8401 to 71-8407;~~

- ~~23. Practicing the profession of chiropractic while his/her license is suspended or in contravention of any limitation placed upon his/her license;~~
- ~~24. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination requested by the Board, pursuant to Neb. Rev. Stat. §§ 38-1,110 to 38-1,113 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed;~~
- ~~25. Failure to make credential available upon request: Every person credentialed under the Uniform Credentialing Act must make the person's current credential available upon request. All signs, announcements, stationery, and advertisements of persons credentialed under the act shall identify the profession or business for which the credential is held;~~
- ~~26. Failure of a licensee, who is the subject of a disciplinary investigation, to furnish the Department or its investigator with requested information or requested documents; and/or~~
- ~~27. Committing any act which endangers patient safety or welfare.~~

29-008.03 Temporary Suspension or Limitation

~~29-008.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 29-008.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for~~

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

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

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

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

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

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

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

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

- physician or physicians or other qualified professionals; and
3. ~~_____~~ Limit the extent, scope, or type of practice of the credential holder.

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

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

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

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

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

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

~~29-009.03~~ When the Department either accepts or rejects an offer of voluntary surrender

or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

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

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

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

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

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

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

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

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

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

1. _____ Application: The applicant on his/her application:
 - a. _____ Must provide the following information:

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

~~Credentialing Act: or~~

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

~~2. Fee(s): The following fee(s):~~

- ~~a. If the credential is expired or inactive, the reinstatement and renewal fees; or~~
- ~~b. If the credential was voluntarily surrendered, the renewal fee.~~

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

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

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

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

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

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

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

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

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

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

~~of the United States or qualified alien under the Federal Immigration and Nationality Act; and~~

~~(6) For purposes of Neb. Rev. Stat. §38-129:~~

~~(a) A citizen of the United States;~~

~~(b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act; or~~

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

~~2. Fee: The renewal fee.~~

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

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

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

~~29-010.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 29-010.03B, the Board may:~~

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

~~If the applicant has practiced while his/her credential was suspended, limited,~~

~~revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 23-011, in which case a separate notice of opportunity for hearing will be sent to the applicant.~~

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

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

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

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

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

~~29-010.03G Denial Decision: If the Board's final decision is denial of the~~

application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

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

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

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

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

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

~~29-011 ADMINISTRATIVE PENALTY:~~ The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

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

~~29-011.01 Evidence of Practice:~~ The Department will consider any of the following

~~conditions as prima facie evidence of practice without being credentialed:~~

- ~~1. The person admits to engaging in practice;~~
- ~~2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;~~
- ~~3. Billing or payment records document the provision of service, care, or treatment by the person;~~
- ~~4. Service, care, or treatment records document the provision of service, care, or treatment by the person;~~
- ~~5. Appointment records indicate that the person was engaged in practice; and~~
- ~~6. Water well registration or other government records indicate that the person was engaged in practice; and~~
- ~~7. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.~~

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

~~29-011.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess the penalty, the Department will:~~

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

~~29-011.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.~~

Effective Date _____ NEBRASKA DEPARTMENT OF _____ 172 NAC 29
May 8, 2012 _____ HEALTH AND HUMAN SERVICES

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

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

Approved by Attorney General: _____ March 12, 2012 _____
Approved by Governor: _____ May 3, 2012 _____
Filed with Secretary of State: _____ May 3, 2012 _____
Effective Date: _____ May 8, 2012 _____

Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx

Nebraska Department of Health and Human Services
Division of Public Health
Licensure Unit
PO Box 94986
Lincoln NE 68509-4986

(402)471-2299

TITLE 172 - PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 30 - (Repealed)

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 29 CHIROPRACTIC

001. SCOPE AND AUTHORITY. This chapter governs the licensure of chiropractors or chiropractic physicians under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 38-801 to 38-811 of the Chiropractic Practice Act and the Uniform Credentialing Act (UCA).

002. DEFINITIONS. Definitions are set out in the Chiropractic Practice Act, the Uniform Credentialing Act, 172 Nebraska Administrative Code (NAC) 10, and this chapter.

002.01 ACCOUNTABILITY. Being responsible and answerable for decisions and for the action or inaction of self and others, and for the resultant patient outcomes related to decisions and action or inaction.

002.02 ACUPUNCTURE. For the purposes of this chapter, acupuncture includes any insertion of therapeutic monofilament needles in the human body for therapeutic purposes regardless of the nomenclature used, including dry needling and meridian therapy.

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

002.04 CHIROPRACTOR OR CHIROPRACTIC PHYSICIAN. An individual who is currently licensed or otherwise authorized to practice chiropractic under the Uniform Credentialing Act.

002.05 COMPLEX TASKS. Those tasks that require:

- (A) Chiropractic judgment to safely alter standard procedures pursuant to the needs of the client or patient;
- (B) Chiropractic judgment to determine how to proceed from one step to the next; or
- (C) The multi-dimensional application of the chiropractic service.

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

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

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

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

002.09 UNLICENSED PERSON. A person who does not have a license to practice chiropractic and who functions in an assistant or subordinate role to the chiropractor or chiropractic physician. Although unlicensed persons may be used to complement chiropractors or chiropractic physicians in the provision of chiropractic care, these persons cannot be used as a substitute for a licensed chiropractor or chiropractic physician.

003. LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the licensing requirements of Neb. Rev. Stat. §§ 38-801 to 38-811, 172 NAC 10, and this chapter.

003.01 DOCUMENTATION. The following documentation must be provided to the Department.

003.01(A) EDUCATION. Submit an official transcript, directly from the issuing institution, verifying graduation from a Board approved accredited college of chiropractic. Accreditation must be by the Council on Chiropractic Education-United States or The Councils on Chiropractic Education International.

003.01(B) EXAMINATION. Documentation of successful completion of the licensure examination sent directly to the Department from the National Board of Chiropractic Examiners:

- (i) For applicants who apply no more than 3 years after passing the examination, results of Parts I, II, III, IV, and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in

each part; or

- (ii) For applicants who have met the examination requirements in 172 NAC 29-003.01(B)(i) more than 3 years prior to the time of application, and who are not practicing in another jurisdiction at the time of application, documentation of successfully passing the National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the 3 years immediately preceding the application.

003.01(C) OTHER PROOF OF COMPETENCY. Documentation for applicants that are licensed in another jurisdiction.

- (i) For applicants who are currently licensed and practicing in another jurisdiction at the time of application:
 - (1) The examination set out in 172 NAC 29-003.01(B)(i); or
 - (2) Parts I, II and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part; and the National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375;
- (ii) For applicants currently licensed in another jurisdiction, but are not practicing at the time of application:
 - (1) The examination set out in 172 NAC 29-003.01(B)(i); or
 - (2) Parts I, II and physiotherapy of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each part and, the National Board of Chiropractic Examiners' Special Purposes Examination for Chiropractic (SPEC) with a scaled score of at least 375 within the 2 years immediately preceding the application and, documentation of completing 36 hours of approved continuing education within 24 months prior to making application.

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

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

004.02 ASSIGNMENT OF TASKS, TREATMENTS, OR INTERVENTIONS; ALLOWED. A licensed chiropractor or chiropractic physician may assign or direct unlicensed persons to perform selected tasks, treatments, or interventions that:

- (A) Reoccur frequently in the care of a client or patient or group of clients or patients;
- (B) Do not require the unlicensed person to exercise independent chiropractic judgment;
- (C) Do not require the performance of a complex tasks;
- (D) The results of the task, treatment, or intervention are predictable and the potential risk is minimal; and
- (E) Utilize a standard and unchanging procedure.

004.03 ASSIGNMENT OF TASKS, TREATMENTS, OR INTERVENTIONS; NOT ALLOWED. Tasks, treatments, or interventions that may not be assigned or directed include, but are not limited to:

- (A) Tasks, treatments, or interventions that require a license or other credential, unless the individual has the required license or credential.
- (B) Activities, including data collection, problem identification, and outcome evaluation that require independent chiropractic judgment;
- (C) Coordination and management of care including collaborating, consulting, and referring; or
- (D) Tasks, treatments, or interventions that are complex based on the definitions of this chapter.

004.04 PATIENT OR CLIENT ASSESMENTS. An unlicensed person as assigned or directed by a chiropractor or chiropractic physician may contribute to the assessment of the health status or determination of diagnosis by a chiropractor or chiropractic physician of individuals including interactions of individuals with family members or group members by:

- (A) Collecting basic subjective and objective data from observations and interviews. The data to be collected must be identified by the chiropractor or chiropractic physician; and
- (B) Reporting and recording the collected data.

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

004.06 SUPERVISION. A licensed chiropractor or chiropractic physician must provide direction to unlicensed persons or assign tasks, treatments, or interventions to unlicensed persons through either direct or indirect supervision or a combination of both.

004.06(A) INDIRECT SUPERVISION. Indirect supervision may occur when client or patient conditions are stable or predictable, and the client or patient is competent to make informed decisions and provide necessary information relative to the tasks, treatments, or interventions. Indirect supervision may be provided through protocols and periodic inspection and evaluation in combination with plans of care.

004.06(A)(i) INDIRECT SUPERVISION THROUGH PROTOCOLS. When using protocols as a method of indirect supervision, the protocols approved by the chiropractor or chiropractic physician must:

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

004.06(A)(ii) INDIRECT SUPERVISION THROUGH PERIODIC INSPECTION AND EVALUATION. When using periodic inspection and evaluation as a method of indirect supervision, the chiropractor or chiropractic physician must include:

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

004.06(B) DIRECT SUPERVISION. Direct supervision of unlicensed personnel is required when the client or patient is not competent to make informed decisions or cannot provide necessary information relative to the tasks, treatments, or interventions.

005. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10 and this chapter. All chiropractic licenses issued by the Department expire on August 1st of each even-numbered year.

005.01 WAIVER OF CONTINUING COMPETENCY REQUIREMENT DUE TO ILLNESS OR DISABILITY. The Department may waive continuing education requirements, in whole or in part, upon submission of proof that the license 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.

006. CONTINUING EDUCATION. On or before August 1st of each even-numbered year, individuals holding an active license in the State of Nebraska must complete at least 36 hours of acceptable continuing education hours during the preceding 24-month period. The Board does not approve individual continuing education programs or activities. In order for a continuing education activity or program to be acceptable for renewal or reinstatement of a license, the activity must relate directly to the practice of chiropractic and must include:

- (A) At least 4 hours related to technical skills in one or a combination of the following categories:

- (i) Continuing education designed to enhance the practitioner's technical and clinical skill related to x-ray physics, quality control, x-ray production, and interpretation of diagnostic imaging; or
- (ii) Continuing education designed to enhance the practitioner's skill in utilizing chiropractic adjustive technique; and
- (B) At least 4 hours related to practice issues in one or a combination of the following categories:
 - (i) Continuing education pertaining to Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS), infectious diseases and related conditions as they relate to chiropractic;
 - (ii) Continuing education designed to enhance the practitioner's awareness of gender sensitivity and sexual harassment issues, commonly referred to as boundary training;
 - (iii) Continuing education related to the chiropractic scope of practice in the State of Nebraska, which must include adopted practice guidelines and practice law specific to Nebraska only;
 - (iv) Continuing education designed to enhance the practitioner's skill related to ordering laboratory tests and interpreting information from laboratory tests;
 - (v) Continuing education designed to enhance the practitioner's skill in performing physical, neurological, and orthopedic examination procedures as they relate to chiropractic practice;
 - (vi) Continuing education related to prevention of fraud, system set-ups, coding, quality control, and standards of practice;
 - (vii) Continuing education pertaining to the provision of rehabilitative care as it relates to chiropractic practice;
 - (viii) Continuing education related to practice ethics as recognized by state or national associations; and
 - (ix) Continuing education related to the use of unlicensed personnel.

006.01 CONTINUING EDUCATION HOUR OR CREDIT CALCULATIONS: The following provides the hour calculations for acceptable continuing education:

006.01(A) ACADEMIC COURSEWORK. Courses taken either in person or online for college credit will be accepted for continuing education upon submission of a transcript by the college or university from which the course was taken. Continuing education hours will be awarded as follows:

- (i) One academic semester credit hour equates to 15 contact hours.
- (ii) One academic quarter credit hour equates to 10 contact hours.

006.01(B) CONFERENCES, WORKSHOPS, OR SEMINARS. Attendance at these types of offerings will be accepted for continuing education upon submission of a certificate of completion which includes:

- (i) The date;
- (ii) The location;
- (iii) The course title;

- (iv) The number of hours awarded;
- (v) A signature by the representative of the offering; and
- (vi) A course brochure or course outline.

006.01(C) PRESENTERS, SPEAKERS, OR INSTRUCTORS. A licensee who is a presenter of a continuing education program may receive credit for the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program. Presentations will be accepted for continuing education upon submission of materials which show the content of the presentation, including:

- (i) The title and date of the presentation; and
- (ii) An outline or copies of the materials utilized in the presentation; or
- (iii) A copy of the presentation brochure that includes the name of the presenter.

006.01(D) INDEPENDENT STUDY. Independent study hours through written, audio or electronic media will be accepted for continuing education when the program has an examination to determine satisfactory completion of the program. Continuing education hours obtained through independent study cannot be used to fulfill the mandatory hours for technical skills or for practice issues required in 006.(A) and 006.(B). A maximum of 6 hours of credit may be obtained by independent study each 24 month renewal period. Credit will be given for the independent study upon submission of a certificate of completion which includes:

- (i) The date;
- (ii) The course title;
- (iii) The number of hours awarded;
- (iv) The course brochure or outline; and
- (v) The exam score.

006.01(E) REQUIREMENTS OF CONTINUING EDUCATION INSTRUCTORS. Instructors for programs on subject areas listed in 172 NAC 29-006.02(A) through (B) for purposes of meeting the mandatory continuing education requirement:

- (i) Must have provided at least 1 continuing education program relating to the practice of chiropractic each year for the previous 3 years; and
- (ii) The instructor must have specialized experience or training to meet the objectives of the course. The presenter of any course on interpreting diagnostic imaging must:
 - (1) Be a Diplomate of the American Chiropractic Board of Radiology or its equivalent; or
 - (2) Have 5 years of experience in teaching diagnostic imaging.

006.02 NON-ACCEPTABLE CONTINUING EDUCATION TOPIC AREAS. Examples of non-acceptable subject matter include, but are not limited to, practice promotion.

007. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. §38-179 and this chapter. Commission of any of the following acts or behavior constitutes unprofessional conduct.

007.01 COOPERATION. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;

007.02 PROFESSIONAL RELATIONSHIPS. Failure to safeguard the welfare of patients and maintain appropriate professional relationships with patients and other health care practitioners. This includes, but is not limited to:

- (A) Improper use of another person for one's own advantage;
- (B) Failure to decline to carry out chiropractic services that have been requested when the services are known to be contraindicated or unjustified;
- (C) Failure to decline to carry out procedures that have been requested when the services are known to be outside of the chiropractor's or chiropractic physician's scope of practice;
- (D) Verbally or physically abusing patients;
- (E) Falsification or unauthorized destruction of patient records;
- (F) Delegating to other personnel those patient related services when the clinical skills and expertise of a chiropractor or chiropractic physician is required;
- (G) Over-utilization of laboratory and x-ray procedures, and the devices or nutritional products that are in the best interest of the patient;
- (H) Failure to assure that the patient possesses enough information to enable intelligent choices in regard to proposed chiropractic treatment;
- (I) Failure to terminate a professional relationship when it becomes clear that the patient is not benefiting from further care or treatment; and
- (J) Failure to consult and seek the talents of other health care professionals when the consultation would benefit the patient or when the patient expressed a desire for the consultation.

007.03 SEXUAL HARASSMENT. Engaging in sexual misconduct which is defined as sexual harassment of patients or employees. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:

- (A) Providing or denying service to a client;
- (B) Creating an intimidating, hostile, or offensive environment for the patient or employee;
or
- (C) Providing favorable reports for sexual favors.

007.04 SEXUAL RELATIONSHIP. Engaging in a sexual relationship during the provision of professional services, or for 3 months following the termination of professional services.

007.05 ADVERTISING, PUBLICITY AND SOLICITATION. The following outlines unprofessional conduct for chiropractors in relation to advertising, publicity and solicitation:

- (A) A chiropractor or chiropractic physician must not make a false or misleading communication about the chiropractor or chiropractic physician or the chiropractor's or chiropractic physician's services. A communication is false or misleading if:
 - (i) The chiropractor or chiropractic physician charges a fee for any chiropractic service conducted within 24 hours after performing a chiropractic service that was

- advertised as being free;
- (ii) The chiropractor or chiropractic physician bills an insurance company or third-party payee for a service that has been offered through an advertisement to a prospective patient as free without explaining to the prospective patient which services are billable and which are free;
 - (iii) It contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
 - (iv) It is likely to create an unjustified expectation about the results the chiropractor or chiropractic physician can achieve, or states or implies that the chiropractor or chiropractic physician can achieve results by means that violate this chapter or the Uniform Credentialing Act; or
 - (v) It compares the chiropractor's or chiropractic physician's services with other chiropractor's or chiropractic physicians' services, unless the comparison can be factually substantiated;
- (B) Subject to the requirements of this chapter, a chiropractor or chiropractic physician may advertise services. A copy or recording of an advertisement or written communication must be kept for 1 year after its dissemination along with a record of when and where it was used;
- (C) A chiropractor or chiropractic physician or any person designated, contracted, or paid by a chiropractor or chiropractic physician must not solicit professional employment as a chiropractor or chiropractic physician for themselves, their partner or their associate, from any person when the professional employment concerns the evaluation or treatment of any injury or potential injury that relates to an accident or disaster involving the person to whom the solicitation is directed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the solicitation. This prohibition does not apply to any contact with any person who has sought their advice regarding employment of a chiropractor or chiropractic physician or other health care provider;
- (D) A chiropractor or chiropractic physician cannot compensate or give anything of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item;
- (E) A chiropractor or chiropractic physician or any person designated, contracted, or paid by a chiropractor or chiropractic physician cannot solicit professional employment as a chiropractor or chiropractic physician for themselves, their partner or associate, either through direct contact or through a written communication to, a potential patient, if:
- (i) The chiropractor or chiropractic physician knows or reasonably should know that the physical, emotional, or mental state of the person is such that the person could not exercise reasonable judgment in employing a chiropractor or chiropractic physician;
 - (ii) The person has made known to the chiropractor or chiropractic physician or their agent a desire not to receive communications from the chiropractor or chiropractic physician; or
 - (iii) The communication involves coercion, duress, fraud, misrepresentation, overreaching, harassment, intimidation, or undue influence;

- (F) If a chiropractor or chiropractic physician advertises a fee for a service, the chiropractor or chiropractic physician must render that service for no more than the fee advertised;
- (G) Unless otherwise specified, if a chiropractor or chiropractic physician advertises fee information, the chiropractor or chiropractic physician is bound by any representation made therein for a period of not less than 30 days after such advertisement;
- (H) On the front of each envelope in which an advertisement of a chiropractor or chiropractic physician is mailed or delivered on or the front of each post card, if the advertisement is printed on a post card, must be the words: "This is an advertisement." These words must be printed in type size at least as large as the print of the address and must be located in a conspicuous place on the envelope or card; or
- (I) An advertisement or written communication of a chiropractor or chiropractic physician seeking professional employment by a specific potential patient cannot reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the potential patient's medical problem.

007.06 SUPERVISION. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed chiropractor or chiropractic physician.

008. DIAGNOSTIC TESTING. As a primary care physician, a chiropractor or chiropractic physician who accepts a patient for any professional reason has a duty and responsibility to perform an appropriate clinical evaluation on that patient for the purpose of assessing the patient's current health status or identify if the patient is a proper subject for chiropractic care. Such a clinical evaluation may involve diagnostic procedures which aid in arriving at a clinical impression. The diagnostic procedures may include, but are not limited to, urine and blood analysis and diagnostic imaging.

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

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