

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

October 2, 2019
1:00 p.m. Central Time
Nebraska State Office Building – Lower Level B
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed changes to Title 172, Chapter 58 of the Nebraska Administrative Code (NAC) – *Dental Faculty Licenses*. The proposed changes remove all duplicative statutory language from the regulations and removes any repetitive regulatory language that is found in 172 NAC 10. The proposed changes also update internal references within the regulations and update formatting. There are no substantive changes to the regulations or changes in requirements for dental faculty.

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

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|--|----------------------------|
| Agency: Department of Health and Human Services | |
| Title: 172 | Prepared by: Jesse Cushman |
| Chapter: 58 | Date prepared: 3/27/19 |
| Subject: Dental Faculty License | Telephone: (402) 471-4915 |

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:

EFFECTIVE _____ NEBRASKA DEPARTMENT OF
06/05/2018 _____ HEALTH AND HUMAN SERVICES _____ 172 NAC 58

TITLE 172 _____ PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 58 _____ DENTAL FACULTY LICENSES

~~58-001 SCOPE AND AUTHORITY: These regulations govern the licensure of Dental Faculty under the Dentistry Practice Act and the Uniform Credentialing Act.~~

In addition to the requirements of 172 NAC 58, all dental faculty licensees are subject to 172 NAC 56-006 Continuing Education; 172 NAC 56-007 Disciplinary Actions; 172 NAC 56-008 Initial Anesthesia Permit; and 172 NAC 56-010 Reinstatement.

~~58-002 DEFINITIONS: For purpose of these regulations, definitions in the Uniform Credentialing Act and the Dentistry Practice Act and the following definitions are hereby adopted.~~

~~Accredited Dental Education Institution means a school or college of dentistry that is accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board.~~

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

~~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.~~

~~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.~~

~~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)~~

~~Non-Accredited Dental Education Institution means a school or college of dentistry that is not accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board.~~

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

~~Postgraduate Education means advanced dental education programs accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board, which includes dental specialties, general practice residencies and advanced education in general dentistry.~~

~~58-003 REQUIREMENTS FOR ISSUANCE OF DENTAL FACULTY LICENSES: An applicant for licensure must pay the appropriate fee and submit to the Department an application and any necessary documentation to show that the applicant meets licensure qualifications. To receive a dental faculty license, an individual must meet the following:~~

~~58-003.01 Requirements Based on Graduation from an Accredited Dental Education Institution:~~

~~58-003.01A Age and Good Character: Be at least 19 years old and of good character;~~

~~58-003.01B Citizenship/Lawful Presence: Meet the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.~~

~~58-003.01C Education: Have graduated from an accredited dental education institution. Upon presentation of satisfactory evidence that the education, training, or service completed by an applicant for a credential while a member of the armed forces of the United States, active or reserve, the National Guard of any state, the military reserves of any state, or the naval militia of any state is substantially similar to the education required for the credential, the Department, with the recommendation of the appropriate board, will accept such education, training, or service toward the minimum standards for the credential;~~

~~58-003.01D Licensure: Holds or has held a license to practice dentistry within the past five years in the United States or Canadian province;~~

~~58-003.01E Employment: Have a contract to be employed as a full-time faculty member at an accredited dental education institution in the State of Nebraska;~~

~~58-003.01F Examination: Pass the jurisprudence examination administered by the Board of Dentistry that relates to the statutes and regulations that govern dentistry with an average score of 75% or above;~~

58-003.02 Requirements Based on Graduation from a Non-accredited Dental Education Institution:

58-003.02A Age and Good Character: Be at least 19 years old and of good character;

58-003.02B Citizenship or Lawful Presence: Meet the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.

58-003.02C Education:

1. Have graduated from a non-accredited dental education institution; and
2. Have completed two years of postgraduate education at an accredited education institution;

58-003.02D Employment: Have a contract to be employed as a full-time faculty member at an accredited dental education institution in the State of Nebraska;

58-003.02E Examination:

1. Pass the licensure examination Part I and Part II given by the Joint Commission on National Dental Examinations (JCNDE) with a score of 75 or above on each part of the examination; and
2. Pass the jurisprudence examination administered by the Board of Dentistry that relates to the statutes and regulations that govern dentistry with an average score of 75% or above;

58-003.03 Application: The application must contain all of the information and documentation required by Neb. Rev. Stats. § 38-129, § 38-130, and § 4-111 and these regulations, including:

58-003.03A Education:

1. An official transcript from an accredited dental education institution showing the graduation date must be sent directly to the department by the originating program or institution; or
2. Verification of graduation from a non-accredited dental college/school, sent directly from the college/school of dentistry to the department (Documents not printed in English must be accompanied by an official English translation.) and verification of completing two years of postgraduate education at an accredited dental education institution sent directly from the college/school of dentistry directly to the department.

~~58-003.03B Examination:~~

- ~~1. The dental jurisprudence examination shall be submitted with the application and graded upon receipt; and~~
- ~~2. If applicable, official documentation of the scores obtained on Part I and Part II of the licensure examination given by JCNDE.~~

~~58-003.03C Credentialed in Another Jurisdiction information:~~ Any credential held or previously held by the applicant to provide health services, health related services, or environmental services in Nebraska or in any other jurisdiction. Such information must include:

- ~~1. The jurisdiction where each credential was issued;~~
- ~~2. The credential number;~~
- ~~3. The type of credential;~~
- ~~4. The date of issuance and the expiration date of each credential, if any. The applicant must have a certification of each credential submitted by the issuing agency to the department.~~

~~58-003.03D Adverse Actions:~~ History of disciplinary actions, adverse actions, denials, denial of the right to take a credentialing examination, or other actions against a credential in any state or jurisdiction, including, but not limited to:

- ~~1. Voluntary surrenders or voluntary limitations;~~
- ~~2. Prior refusals to issue or to renew or to renew a credential;~~
- ~~3. Any disciplinary actions or denials of any credential; and~~
- ~~4. An explanation for all adverse action and or denial.~~

~~58-003.03E Convictions:~~ Any misdemeanor or felony conviction(s). If the applicant has been convicted, the following information and documentation must be submitted 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 behavior/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; a letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation, and~~
- ~~5. Any other information as requested by the Board or Department;~~

~~58-003.03F Alien or Non-Immigrant: Documentation that the applicant meets the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.~~

~~58-003.03G Statement Regarding Continuing Clinical Competency: A statement that the applicant agrees to demonstrate continuing clinical competency as a condition for renewal;~~

~~58-003.03H Practice Statement: A statement that the applicant has not practiced as dentist in Nebraska before being issued a credential, or if the applicant has practiced as a dentist in Nebraska before being issued a credential a statement of the number of days practiced and the name and location of practice;~~

~~58-003.04 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. The documents may not be translated by the Applicant.~~

~~58-003.05 The Department must act within 150 days upon completed applications for licensure.~~

~~58-003.06 A faculty dental licensee may teach dentistry, conduct research, and participate in an institutionally administered faculty practice only at the accredited dental education institution where the applicant has a contract to be employed as a full-time faculty member and must limit his/her practice at an accredited dental education institution to the clinical discipline in which s/he has received postgraduate education.~~

~~58-003.07 Denied or Withdrawn Applications:~~

~~58-003.07A Denied Application: An applicant for a Dental Faculty license whose application is denied by the department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the department. Any examination fee will not be returned.~~

~~58-003.07B Withdrawn Application: An applicant for a Dental faculty license may request to withdraw the application. A request to withdraw an application will be granted:~~

- ~~1. When the request for withdrawal is received within five business days of the receipt of a completed application.~~

~~If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the department.~~

~~58-004 PROCEDURES FOR RENEWAL OF A DENTAL FACULTY LICENSE: An individual who wants to renew his/her dental faculty license to practice as a dentist must, prior to the expiration date, file an application for renewal, pay the fee, demonstrate compliance with continuing education requirements, and of meeting the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.~~

~~58-004.01 Renewal Application: The licensee 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~~~~

~~Disclosing a social security number is mandatory. Certain applicants may have both a social security number and an alien registration number, and if so, must report both.~~

~~58-004.02 Must attest that the applicant:~~

- ~~1. Is of good character;~~
- ~~2. Has met the continuing education requirements specified in 172 NAC 56-006 or has requested a waiver if s/he meets the requirements of 172 NAC 56-006.05; 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 the Uniform Credentialing Act and 172 NAC 56-007, or if an act(s) was committed, provide an explanation of all such acts; and~~

~~58-004.03 Documentation: Must submit the following documentation with the application:~~

- ~~1. Alien or Non-immigrant: Documentation that the applicant meets the requirements set out in Neb. Rev. Stats. § 38-129 and §§ 4-108 through 4-111.~~
- ~~2. 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 and the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;~~
- ~~3. Disciplinary Action: A list of any disciplinary action(s) taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;~~
- ~~4. 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;~~

5. ~~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:
 - a. A list of any felony or misdemeanor 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 evaluation 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.

~~58-005 CONTINUING EDUCATION:~~ Dental faculty licensees must meet continuing education requirements found at 172 NAC 56-006.

~~58-006 DISCIPLINARY ACTIONS:~~

~~58-006.01 Grounds for Action Against a Credential:~~ A dental faculty license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. § 38-178, or for unprofessional conduct.

~~58-006.02 Unprofessional Conduct:~~ Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of Dental Faculty or the ethics of the profession, regardless of whether a person, patient, 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 the acts set out in Neb. Rev. Stat. §§ 38-179 and 172 NAC 56-007.

~~58-007 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.~~

~~58-008 REINSTATEMENT:~~ This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Persons seeking reinstatement of a dental faculty license must meet the requirements for reinstatement pursuant to 172 NAC 56-010. In addition to these requirements, an applicant for reinstatement of a dental faculty license must submit a certification verifying employment as a full-time faculty member at an accredited dental education institution within the State of Nebraska.

~~58-009 ADMINISTRATIVE PENALTY:~~ The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. 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.~~

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 58 DENTAL FACULTY LICENSES

001. SCOPE AND AUTHORITY. These regulations govern the licensure of dental faculty under the Nebraska Revised Statutes (Neb. Rev. Stats. §§ 38-1101 to 38-1152) of the Dentistry Practice Act and the Uniform Credentialing Act.

001.01 In addition to the requirements of 172 NAC 58, all dental faculty licensees are subject to 172 Nebraska Administrative Code (NAC) 56-009 Initial Anesthesia or Sedation Permit; and 172 NAC 10.

002. DEFINITIONS. Definitions are set out in the Dentistry Practice Act, the Uniform Credentialing Act, and these regulations.

002.01 ACCREDITED DENTAL EDUCATION INSTITUTION. A school or college of dentistry that is accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board.

002.02 NON-ACCREDITED DENTAL EDUCATION INSTITUTION. A school or college of dentistry that is not accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board.

002.03 OFFICIAL TRANSCRIPT. A transcript issued by and under the original seal of the educational institution.

002.04 POSTGRADUATE EDUCATION. Advanced dental education programs accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board, which includes dental specialties, general practice residencies, and advanced education in general dentistry.

003. LICENSE REQUIREMENTS. To obtain a license an individual must submit a completed application provided by the Department and provide documentation demonstrating the applicant meets the requirements of Neb. Rev. Stat. §§ 38-1124, 172 NAC 10, and these regulations.

003.01 EDUCATION.

- (A) An official transcript from an accredited dental education institution showing the graduation date must be sent directly to the Department by the originating program or institution; or
- (B) Verification of graduation from a non-accredited dental education institution, sent directly from the originating program or institution to the Department and verification of completing two years of postgraduate education at an accredited dental education institution sent directly from the originating program or institution directly to the Department.

003.02 EXAMINATION FROM AN ACCREDITED DENTAL EDUCATION INSTITUTION. Applicants seeking licensure based on graduation from an accredited dental education institution must:

- (A) Pass the jurisprudence examination administered by the Board of Dentistry that relates to the statutes and regulations that govern dentistry with an average score of 75 or above.

003.03 EXAMINATION FROM A NON-ACCREDITED DENTAL EDUCATION INSTITUTION. Applicants seeking licensure based on graduation from a non-accredited dental education institution must:

- (A) Pass the licensure examination Part I and Part II given by the Joint Commission on National Dental Examinations (JCNDE) or equivalent as determined by the Board of Dentistry with a score of 75 or above on each part of the examination; and
- (B) Pass the jurisprudence examination administered by the Board of Dentistry that relates to the statutes and regulations that govern dentistry with an average score of 75 or above.

004. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10 and this chapter.

004.01 ADDITIONAL INFORMATION. Applicants must submit any other information as requested by the Board or Department.

005. CONTINUING EDUCATION. On or before March 1 of odd-numbered years dental faculty licensees must meet continuing education requirements found in 172 NAC 56-007 and 172 NAC 10.

006. GROUNDS FOR ACTION AGAINST A CREDENTIAL. A dental faculty license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. § 38-178, 172 NAC 10, or for unprofessional conduct.

007. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179 and 172 NAC 56.

008. REINSTATEMENT. For reinstatement, the applicant must meet the requirements set out in 172 NAC 10.

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