

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

December 12, 2019
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed changes to Title 172, Chapter 94 of the Nebraska Administrative Code (NAC) – *Licensure of Mental Health Practitioners and the Certification of Marriage and Family Therapists, Professional Counselors, and Social Workers*. The chapter provides the requirements for education, experience, examination, and documentation to be licensed as an independent mental health practitioner, marriage and family therapist, professional counselor, master social worker, and social worker. The proposed changes remove all duplicative statutory language from the regulations and removes any repetitive regulatory language that is found in 172 NAC 10; clarify the requirement for a license regardless of how services are delivered to clients who are present in Nebraska at the time of service; update definitions; update supervision requirements; revise unprofessional conduct standards to include language relating to discrimination, professional records, and referrals; revise continuing education requirements to remove the maximum number of hours allowed per program type and includes additional options for obtaining continuing education; update education requirements; and update formatting.

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: Kris Chiles
Chapter: 94	Date prepared: 5/7/2019
Subject: Independent Mental Health practitioners, mental health practitioners, marriage and family therapists, professional counselors, and social workers	Telephone: 402-471-0185

Type of Fiscal Impact:

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

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

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 94 INDEPENDENT MENTAL HEALTH PRACTITIONERS, MENTAL HEALTH PRACTITIONERS, MARRIAGE AND FAMILY THERAPISTS, PROFESSIONAL COUNSELORS, AND SOCIAL WORKERS

001. SCOPE AND AUTHORITY. These regulations govern the licensing of independent mental health practitioners, mental health practitioners, and the associated certifications of social workers, master social workers, professional counselors, and marriage and family therapists set out in Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 38-2101 to 38-2139 of the Mental Health Practice Act and the Uniform Credentialing Act. A person who provides mental health services, regardless of the how such services are delivered, to a client present in Nebraska at the time of service, must hold a current appropriate credential that was issued by the Department.

002. DEFINITIONS. Definitions set out in the Mental Health Practice Act, the Uniform Credentialing Act, 172 Nebraska Administrative Code (NAC) 10, and the following apply to this chapter.

002.01 ASSESSMENT. The process of collecting pertinent data about client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment and referral.

002.02 CLIENT OR PATIENT. A person who is a recipient of mental health services within the context of a professional relationship. An individual who provides collateral information about a client or patient is not considered a client or patient.

002.03 CLIENT SYSTEM. Individuals, agencies, or entities directly or indirectly involved with the client that supports, reinforces or otherwise affects the treatment process.

002.04 DIRECT CLIENT CONTACT. Contact between the practicum student or provisional licensed mental health practitioner and a client system while providing mental health services. Direct client contact does not include:

- (A) Writing progress notes;
- (B) Supervisory meetings;
- (C) Research;
- (D) Video observation;
- (E) Continuing education workshops or other similar workshops;
- (F) Telephone supervision; or
- (G) Similar activities.

002.05 MAJOR MENTAL DISORDER. Any clinically significant mental or emotional disorder in which symptoms, regardless of specific diagnoses or the nature of the presenting complaint, are associated with present distress or disability or present significantly increased risk of suffering, death, pain, disability, or an important loss of freedom. No diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, nor any diagnosis from the International Classification of Diseases (ICD) published by the World Health Organization, of the edition or version used on the effective date of this chapter, is excluded from the category of Major Mental Disorder if the contemporary assessment indicates severe symptoms, as outlined in this section. This includes currently observed or assessed dysfunction or impairment that portends danger to self or others, a disabling deterioration of function that seriously impairs daily functioning to include food, clothing, and shelter or an inability to establish or maintain a personal support system. Such disorders may take many forms and have varying causes but must be considered a manifestation of behavioral, psychological, or biological dysfunction in the person. Behavioral or psychological disorder symptoms include one or more of the following:

- (A) Persistent or severe suicidal or homicidal thinking or behaviors injurious to self or others;
- (B) Psychotic symptoms which include delusions, hallucinations, or formal thought disorders, including evidence of frequent substitution of fantasy for reality;
- (C) Physical complaints or signs suggesting deterioration or anomaly in physiological, psychophysiological, or neuropsychological functioning;
- (D) Feeling, mood or affect in which the emotion is clearly disruptive in its effects on other aspects of a person's life. A marked change in mood, depression or anxiety that incapacitates a person;
- (E) Severe impairment in concentration and thinking, persistence, and pace. Frequent or consistently impaired thinking;
- (F) Consistent inability to maintain conduct within the limits prescribed by law, rules, and strong mores or disregard for safety of others or destructive to property.

002.06 MENTAL HEALTH. The relative state of emotional well-being, freedom from incapacitating conflicts, and the consistent ability to make and carry out rational decisions and cope with environmental stresses and internal pressures.

002.07 MENTAL HEALTH FOCUS OR THERAPEUTIC MENTAL HEALTH. An educational process consisting of mental health theories, techniques, practices, and methods necessary to prepare a mental health professional to identify, assess, and intervene with a client population for the primary purposes of providing or resulting in the clients optimal mental health.

002.08 MENTAL ILLNESS. Impaired psychosocial or cognitive functioning due to disturbances in any one or more of the following processes: biological, chemical, physiological, genetic, psychological, social, or environmental.

002.09 PSYCHOTHERAPY. A specialized formal interaction between a credential holder and a client or patient in which a therapeutic relationship is established to help to resolve symptoms of mental disorder, psychosocial stress, relationship problems, and difficulties in coping in the social environment. Some specific types of psychotherapy may include, but are

not limited to, psychoanalysis, family therapy, group psychotherapy, supportive treatment, Gestalt therapy, experiential therapy, primal therapy, psychosocial therapy, psychodrama, behavioral therapy, clinical hypnosis, addiction therapy including drug and alcohol counseling and problem gambling, biofeedback, and cognitive therapy.

002.10 QUALIFIED PHYSICIAN. An individual with a current credential to practice medicine and surgery and who has specialized training in mental health treatment. Specialized training includes residency training in psychiatry or in family practice or fellowship training in behavioral medicine.

002.11 QUALIFIED SUPERVISOR. An individual who assumes the responsibility of supervision and who meets the requirements for being a supervisor.

002.12 SUPERVISED EXPERIENCE. The hours of experience obtained after receipt of the master's degree, under appropriate licensure and before an applicant is granted the desired credential or certification.

003. INITIAL LICENSE. To obtain a provisional or mental health practice license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-2122 or 38-2123, 172 NAC 10, and this chapter.

003.01 PROVISIONAL MENTAL HEALTH PRACTITIONER LICENSE. The applicant must submit an official transcript, submitted directly from the issuing institution, verifying completion of a master's degree, a doctoral degree, or the equivalent of a master's degree. The degree must have been completed at an approved educational program or from a program which meets the requirements in 172 NAC 94-007.

003.02 SECOND PROVISIONAL MENTAL HEALTH PRACTITIONER LICENSE. An individual who does not complete the required 3,000 hours of supervised experience in Nebraska may apply for another provisional license. No additional provisional licenses will be issued to an applicant after the issuance of a second provisional license.

003.03 MENTAL HEALTH PRACTITIONER LICENSE. To obtain an initial license as a mental health practitioner, the applicant must submit:

- (A) Documentation of meeting the education requirements set out in 172 NAC 94-003.01.
- (B) Documentation of meeting the requirements for supervised experience set out in Neb. Rev. Stat. § 38-2122. If the hours were earned in Nebraska the applicant must have held a provisional mental health practitioner license at the time.
- (C) Submit documentation of successfully passing the examination set out in 172 NAC 94-010, directly to the Department from the examination entity or from another state licensing board or agency.

003.04. INDEPENDENT MENTAL HEALTH PRACTITIONER LICENSE. To obtain an initial license as an independent mental health practitioner, the applicant must have a provisional mental health practitioner license or a mental health license. Applicants must submit a complete application provided by the Department and provide documentation demonstrating

that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-2124, 172 NAC 10, and this chapter. Documentation includes:

- (A) Evidence of passing the appropriate examination identified in 172 NAC 94-010. Examination scores must be sent directly to the Department from testing vendor or from another state licensing board or agency.
- (B) An affidavit signed by the supervisor verifying supervised experience set out in Neb. Rev. Stat. §38-2124.

003.05 CERTIFICATE AS A MARRIAGE AND FAMILY THERAPIST, PROFESSIONAL COUNSELOR OR MASTER SOCIAL WORKER. An individual who is licensed or qualified to be licensed as an independent mental health practitioner or mental health practitioner may apply for an associated certification as a certified marriage and family therapist, certified professional counselor or master social worker. To obtain an initial certificate, the applicant must submit a complete application as provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-2128 or 38-2132 or 38-2133, 172 NAC 10, and this chapter.

003.05(A) SUPERVISED EXPERIENCE. An individual applying for certification must submit documentation of having completed at least 3,000 hours of supervised experience applicable to the certificate being requested, under a qualified supervisor set out in 172 NAC 94-008, following receipt of the masters' degree.

003.05(B) EXAMINATION. Submit documentation of successfully passing the examination set out in 172 NAC 94-010, directly to the Department from the examination entity or from another state licensing board or agency.

004. PROVISIONAL CERTIFICATE AS A MASTER SOCIAL WORKER. To obtain a provisional certificate, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the certification requirements of Neb. Rev. Stat. § 38-2129, 172 NAC 10, and this chapter.

004.01 EDUCATION. The applicant must submit an official transcript, submitted directly from the issuing institution, verifying completion of a masters' degree in social work. The degree must have been completed at an approved educational program set out in 172 NAC 94-007.05.

004.02 SECOND PROVISIONAL. An individual who does not complete the required 3,000 hours of supervised experience in Nebraska may apply for another provisional certificate. No additional provisional certificates will be issued to an applicant after the issuance of a second provisional certificate.

005. CERTIFIED SOCIAL WORKER OR CERTIFIED MASTER SOCIAL WORKER. To obtain a certificate that is not in addition to the license as an independent mental health practitioner or mental health practitioner, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. § 38-2128, 172 NAC 10, and this chapter. The applicant must submit:

- (A) An official transcript directly from the educational institution or through an acceptable electronic transcript service, showing proof of the required degree; and

(B) Evidence of meeting the education requirements set out in 172 NAC 94-007.05.

006. RECIPROCITY. To obtain a license or certification based on the applicant holding a credential in another jurisdiction, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the license or certification requirements of § 38-2125, 172 NAC 10, and this chapter. The applicant must submit:

- (A) Documentation of meeting the licensing requirements set out in 172 NAC 94-003.03 or 172 NAC 94-003.04 for the license being requested.
- (B) If applying for a certificate, documentation of meeting substantially equivalent standards to those set out in 172 NAC 94-003.05(A).
- (C) If the applicant is applying for a license based on 5 years of active practice experience following initial licensure or certification in another jurisdiction, the applicant is not required to meet 172 NAC 94-006(A) or (B), but must submit evidence of successful completion of the Nebraska Jurisprudence Examination as set out in 172 NAC 94-010.02(F) and the following:
 - (i) Documentation of having been in active practice under a similar credential following initial credentialing in another jurisdiction as set out in Neb. Rev. Stat. § 38-2125; and
 - (ii) Direct source verification of the credential the applicant holds in another jurisdiction.

007. EDUCATIONAL PROGRAMS. If the educational program is not accredited by one of the organizations set out in Neb. Rev. Stat. § 38-2104, the applicant must provide evidence that the program meets the following requirements:

007.01 MARRIAGE AND FAMILY THERAPY. A program that meets substantially equivalent educational requirements as adopted by Commission on Accreditation for Marriage and Family Therapy Education.

007.02 MENTAL HEALTH PRACTICE. To be approved as equivalent to an approved mental health program, a program must meet the following:

- (A) Be at least 60 semester hours in duration. If the master's degree is less than 60 semester hours, additional hours can be attained outside of the program to equal 60 semester hours. Any additional hours must be graduate hours and have a mental health focus to be considered as substantially equivalent.
- (B) Have a mental health focused supervised practicum or internship that included a minimum of 300 clock hours of direct client contact under the supervision of a qualified supervisor as defined in 172 NAC 94-008 of these regulations. Any artificial situation where a person presents a problem, such as role playing, is not direct client contact. The program must have an emphasis on mental health practice and include coursework in theories and techniques, professional ethics, assessment techniques, human growth and development, and research and evaluation. Two years after the effective date of these regulations the coursework must also include social and cultural diversity. No course may be used to fulfill more than 1 coursework area. The coursework must meet the following requirements:
 - (i) A minimum of 6 semester hours or 9 quarter hours in theories and techniques. Two years after the effective date of these regulations, the coursework must include a minimum of at least 9 semester hours or 12 quarter hours in theories and techniques. The course must focus on therapeutic techniques and strategies for human behavioral intervention. Therapeutic techniques and

strategies may include the study of major contributions of biological, behavioral, cognitive, and social sciences relevant to understanding assessment and treatment of a person and his or environment with an emphases on the social systems framework, personality theories and development through the life cycle and application of those during therapy.

- (ii) A minimum of 3 semester hours or 4.5 quarter hours in professional ethics. The course must focus on the application of ethical and legal issues to the practice. Ethical and legal issues may include family law, codes of ethics, boundaries, peer review, record keeping, confidentiality, informed consent, and duty to warn.
 - (iii) A minimum of 3 semester hours or 4.5 quarter hours in assessment techniques. The course must focus on the process of collecting pertinent data about a client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment or referral or both. Assessment techniques may include the ability to make a clinical diagnostic impression, knowledge of psychopathology, and assessment of substance abuse and other addictions.
 - (iv) A minimum of 3 semester hours or 4.5 quarter hours in human growth and development. The course must focus on studies that provide an understanding of the nature and needs of individuals at all developmental levels. Human growth and development may include theories of individual and family development and transitions across the life-span; theories of learning and personality development; human behavior including an understanding of developmental crises, disability, exceptional behavior, addictive behavior, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior; and strategies for facilitating optimum development over the life-span.
 - (v) A minimum of 3 semester hours or 4.5 quarter hours in research and evaluation. Research and evaluation includes statistics or research design and development of research and demonstration proposals.
 - (vi) Two years after the effective date of these regulations, in addition to the above coursework, a minimum of 3 semester hours or 4.5 quarter hours in social and cultural diversity. The course must focus on studies that provide an understanding of the cultural context of relationships, and issues and trends in a multicultural and diverse society. Social and cultural diversity may include multicultural and pluralistic trends, including characteristics and concerns between and within diverse groups nationally and internationally; attitudes, beliefs, understandings, and acculturative experiences, including specific experiential learning activities; individual, couple, family, group, and community strategies for working with diverse populations and ethnic groups; counselors' roles in social justice, advocacy and conflict resolution, cultural self-awareness, the nature of biases, prejudices, processes of intentional and unintentional oppression and discrimination, and other culturally supported behaviors that are detrimental to the growth of the human spirit, mind, or body; theories of multicultural counseling, theories of identity development, and multicultural competencies.
- (C) Graduate programs accepting an undergraduate course as meeting the course criteria set out in 172 NAC 94-007.02(B)(i) through (vi) are acceptable if the course was used to meet the requirements for the master's degree. The applicant must have the school submit a notarized letter, on institutional letterhead, from an

authorized person-stating the undergraduate course(s) was accepted to meet the educational requirement(s) of the master's degree.

007.03 INDEPENDENT MENTAL HEALTH PRACTICE. A program that meets the educational requirements set out in Neb. Rev. Stat. § 38-2124.

007.04 PROFESSIONAL COUNSELING. A program that meets substantially equivalent educational requirements as adopted by the Council for Accreditation of Counseling and Related Educational Programs.

007.05 SOCIAL WORK. The following are acceptable programs:

007.05(A) BACCALAUREATE DEGREE. Undergraduate social work education and training approved by the Council on Social Work Education (CSWE).

007.05(B) MASTER'S DEGREE. Graduate social work education and training approved by the Council on Social Work Education (CSWE).

007.05(C) DOCTORAL DEGREE PROGRAMS. Recognized by the Groups for Advancement of Doctoral Education (GADE).

007.06 DEGREE OBTAINED IN A FOREIGN COUNTRY. A degree obtained in a foreign country must be evaluated by a foreign educational credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) and be determined as equivalent to a degree issued from an approved program.

008. QUALIFIED SUPERVISOR. Supervisors must insure that their judgment is not impaired based on their personal relationship with the supervisee and that no exploitation of the supervisee occurs. The supervisor must:

(A) Hold a current active credential; and

(B) If the supervisor's license or certificate has been disciplined, at least 1 year must have elapsed following completion of any disciplinary terms and conditions. If disciplinary action is taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department.

008.01 ADDITIONAL REQUIREMENTS. The following sets out additional supervisor requirements to obtain a license as an independent mental health practitioner, a certificate as a marriage and family therapist, a certificate as a master social worker, or a license as a mental health practitioner.

008.01(A) INDEPENDENT MENTAL HEALTH PRACTICE LICENSE. The supervisor must be a licensed physician, a licensed psychologist, a licensed independent mental health practitioner, or have a current similar credential or certification in another jurisdiction.

008.01(B) MARRIAGE AND FAMILY THERAPY CERTIFICATE. The supervisor must be a licensed independent mental health practitioner, licensed mental health practitioner, licensed psychologist, or licensed physician who meets either item (i) or (ii) below:

- (i) Holds an approved supervisor designation issued by the American Association for Marriage and Family Therapy or an equivalent organization as approved by the Board; or
- (ii) Is a certified marriage and family therapist or have a current similar credential or certification in another jurisdiction, who has practiced for five years and has completed, at a minimum, a five hour supervision course that is provided, endorsed, or approved by the American Association of Marriage and Family Therapy or an association which has substantially similar standards to those of the American Association of Marriage and Family Therapy, and has received supervision by an American Association of Marriage and Family Therapy approved supervisor at least one hour per month for at least one year after completion of the supervision course.

008.01(C) MASTER SOCIAL WORK CERTIFICATION. The supervisor must be a certified master social worker, or have a current similar credential or certification in another jurisdiction.

008.01(D) MENTAL HEALTH PRACTICE LICENSE. The supervisor must be a licensed physician, a licensed psychologist, a licensed independent mental health practitioner, a licensed mental health practitioner, or have a current similar credential or certification in another jurisdiction.

009. SUPERVISED EXPERIENCE. To count toward the required number of hours of supervised experience, all direct and in-direct client contact hours must take place while the applicant is being supervised by a qualified supervisor and supervised experience must meet the requirements set out below:

009.01 GENERAL SUPERVISION REQUIREMENTS. Supervision for all applicants must meet the following:

- (A) Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;
- (B) Include a process which is distinguishable from personal psychotherapy, consultation or didactic instruction; and
- (C) Consist of experience in a setting where mental health services are being offered during which:
 - (i) The supervisee apprises the supervisor of the diagnosis and treatment of clients;
 - (ii) The clients' cases are discussed;
 - (iii) Ethical principles of the profession are discussed;
 - (iv) The supervisor provides the supervisee with oversight and guidance with the provision of service to clients;
 - (v) The supervisor must evaluate the supervisee's performance by periodically evaluating the therapeutic process and determining if treatment goals are being met and if changes in direction or emphasis are needed; and
 - (vi) The supervisor cannot supervise more than 6 persons at 1 face-to-face supervisory meeting. Face to face supervision may include interactive visual imaging assisted communication which is secure and confidential.

009.02 MENTAL HEALTH PRACTICE SUPERVISION. Supervision must also include:

- (A) Supervised experience, which is not considered direct client contact, and includes, but is not limited to, review of client records, case conferences, direct observation, or video observation; and
- (B) Evaluative face-to-face contact for a minimum of 1 hour per week between the supervisee and supervisor. Face to face supervision may include interactive visual imaging assisted communication which is secure and confidential.

009.03 INDEPENDENT MENTAL HEALTH PRACTICE SUPERVISION. In addition to the requirements in 172 NAC 94-009.02 supervision must include:

- (A) A review of the diagnostic criteria for clients diagnosed with major mental disorders;
- (B) Evaluative face-to-face contact with a minimum cumulative ratio of 2 hours of face-to-face contact between the supervisee and a qualified supervisor per 15 hours of contact with clients diagnosed with major mental disorders, no more than 45 hours may be accumulated without such supervision. Face to face supervision may include interactive visual imaging assisted communication which is secure and confidential;
- (C) Supervised experience, which is not considered direct client contact, includes, but is not limited to, review of client records, case conferences, direct observation, or video observation; and
- (D) A licensed mental health practitioner seeking licensure as a licensed independent mental health practitioner must receive supervision of all direct client contact where the licensee is providing services to clients with major mental disorders. This supervision must last until the person receives the credential qualifying him or her for independent practice, not just during the period of time in which the specified number of hours is obtained.

009.04 MARRIAGE AND FAMILY THERAPY SUPERVISION. Supervision must include:

- (A) At least 3,000 hours of supervised experience during the five years preceding application for certification. The 3,000 hours must include a minimum of 1,500 hours of direct client contact. During the course of completing the client-contact hours, there must be at least 100 hours of supervisor-supervisee contact hours with a qualified supervisor and supervision must be provided at least 1 hour per week or 2 hours every 2 weeks; and
- (B) Supervised experience, which is not considered direct client contact, includes, but is not limited to, review of client records, case conferences, direct observation, or video observation.

009.05 MASTER SOCIAL WORK SUPERVISION. When a person wishes to apply for a mental health practice license and master social work certificate, supervision must be provided under a licensed independent clinical social worker or licensed clinical social worker and in accordance with this section. Supervision, when conducted pursuant to Neb. Rev. Stat. § 38-2119, must include:

- (A) At least 3,000 hours of supervised experience;
- (B) The written records of services or procedures are examined and evaluative interviews are conducted by a certified master social worker;
- (C) Discussion of ethical principles of the profession; and
- (D) Evaluative face-to-face contact for a minimum of 1 hour per week between the supervisee and supervisor.

010. EXAMINATIONS. Applicants must meet the examination requirements of this section.

010.01 ELIGIBILITY AND APPLICATION PROCESS. For an applicant who is not authorized to take the examination through his or educational institution, the applicant must apply for approval through the Department and must have received a master's, doctorate or equivalent degree from an approved program as set out in 172 NAC 94-007. The applicant must submit the following:

- (A) An official transcript submitted directly from the educational institution or through an acceptable electronic transcript service, showing proof of the required degree.
- (B) A completed application requesting approval to take the examination.
- (C) A completed request for special accommodations, if requested by the applicant.

010.02 EXAMINATIONS REQUIRED. The following examinations are required as set out in this chapter.

010.02(A) MARRIAGE AND FAMILY THERAPY. For certification as a marriage and family therapist and licensure as a mental health practitioner or independent mental health practitioner, an applicant must pass the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination.

010.02(B) PROFESSIONAL COUNSELING. For certification as a professional counselor and licensure as a mental health practitioner or independent mental health practitioner, an applicant must pass:

- (i) The National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the The National Board of Certified Counselor's National Clinical Mental Health Counselor Examination (NBCC/NCMHCE); or
- (ii) The Commission on Rehabilitation Counselor Examination (CRC).

010.02(C) SOCIAL WORK. An applicant must pass the Association of Social Work Boards examination as identified below:

- (i) If applying for the mental health practice license or independent mental health practice license and master social work certificate, the applicant must pass the Clinical Examination.
- (ii) If applying for only the master social work certificate, the applicant must pass the Advanced Generalist Examination, Master Examination, or Clinical Examination.

010.02(D) MENTAL HEALTH PRACTITIONER OR INDEPENDENT MENTAL HEALTH PRACTITIONER. An applicant must pass the examination as follows:

- (i) If the applicant's degree is in marriage and family therapy or its equivalent, the applicant must pass the Association of Marital and Family Therapy Regulatory Boards examination (AMFTRB).
- (ii) If the applicant's degree is in social work or its equivalent, the applicant must pass the Association of Social Work Boards Clinical examination (ASWB).
- (iii) If the applicant's degree is a mental health related counseling degree, the applicant must pass:

- (1) The National Board of Certified Counselor's National Counselor Examination (NBCC/NCE);
- (2) The National Board of Certified Counselor's National Clinical Mental Health Counselor Examination (NBCC/NCMHCE);
- (3) The Commission on Rehabilitation Counselor Examination (CRC);
- (4) The Examination for Professional Practice in Psychology (EPPP); or
- (5) Any other examination determined by the Board to be equivalent.

010.02(E) EXAMINATION PASSING SCORES. The passing score on each of the examinations is set out as follows:

- (i) The passing score on the National Board of Certified Counselor's National Examination is determined using the Angoff method for the National Clinical Mental Health Counselor examination and a modified Angoff method for the National Board of Certified Counselor's National Counselor Examination.
- (ii) The passing score on the Association of Marital and Family Therapy Regulatory Boards examination (AMFTRB) is determined by using a modified Angoff method.
- (iii) The passing score on the Commission on Rehabilitation Counselor Examination (CRC) is determined using a conjunctive scoring model.
- (iv) The passing score on the Association of Social Work Boards Examination is 75.
- (v) The passing score on the Examination for Professional Practice in Psychology (EPPP) is a scaled score of 500.

010.02(F) RECIPROCITY. An applicant who is applying based on reciprocity and practice for at least 5 years following licensure, is required to pass the Nebraska jurisprudence examination with a score of at least 75%.

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

012. CONTINUING EDUCATION REQUIREMENTS. During the 24 months prior to the renewal date, individuals holding active licenses and certifications in the State of Nebraska must complete at least 32 hours of acceptable continuing education hours related to mental health practice during the preceding 24-month period.

012.01 GENERAL REQUIREMENTS. Applicants must meet the following continuing education requirements:

- (A) All license and certificate holders must complete at least 4 hours of continuing education in ethics.
- (B) All licensed independent mental health practitioners must complete at least 6 hours of continuing education relating to diagnosis and treatment of major mental disorders.

012.02 LICENSEES WHO HOLD AN ASSOCIATED CERTIFICATE. An individual who holds an independent mental health practice license or mental health practice license and an associated certificate(s) is not required to earn continuing education hours for each additional certificate.

012.03 TYPES OF ACCEPTABLE CONTINUING EDUCATION AND HOUR DETERMINATIONS. The following provides the types of continuing education that is considered acceptable for renewal and reinstatement and the hour determinations:

- (A) Completing academic credit during the renewal period. Academic credit is determined as follows:
 - (i) 1 academic semester credit equals 15 continuing education credit hours and 1 credit audited equals 8 hours of continuing education.
 - (ii) 1 academic quarter credit equals 10 continuing education credit hours and 1 credit audited equals 5 hours of continuing education.
 - (iii) 1 academic trimester credit equals 14 continuing education credit hours and 1 credit audited equals 7 hours of continuing education.
- (B) Hours for teaching an academic course or supervising a practicum or internship is determined the same as 172 NAC 012.03(A) above.
- (C) 6 hours per renewal period can be obtained for supervising a provisional licensee or provisional certificate holder.
- (D) Hours for completing home study or video programs, including those transmitted through electronic means, are determined by the provider of the program.
- (E) Authoring a peer reviewed publication equals 16 hours.
- (F) 60 minutes equals 1 continuing education hour when attending or participating workshops, lectures, or interactive webinars.

012.04 WORKSHOP PRESENTERS OR ACADEMIC INSTRUCTORS. An individual may receive credit for the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program or course.

012.05 NON-ACCEPTABLE CONTINUING EDUCATION. Non-acceptable subject matter for continuing education credit includes, but is not limited to the following:

- (A) Leadership training provided through associations;
- (B) Business technology, business techniques, and management; and
- (C) Association business meeting or delegate report.

013. UNPROFESSIONAL CONDUCT. Unprofessional conduct includes but is not limited to the acts set out in Neb. Rev. Stat. §38-179 and these regulations.

013.01 COMPETENCE. A credential holder must not provide services for which he or she is not trained or experienced, unless he or she associates with another credential holder with established competence in the service or obtains the knowledge through necessary study. A credential holder must not encourage or promote the practice of mental health services, social work, professional counseling, or marriage and family therapy by untrained or unqualified persons.

013.02 CONFIDENTIALITY. A credential holder must hold in confidence information received from a potential client with respect to the service requested, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required or permitted by law. A person who communicates information unilaterally to a credential holder without a reasonable expectation that the credential holder is willing to form a client-therapist relationship, is not a potential client.

013.03 DISCLOSURE OF CONFIDENTIAL INFORMATION. A person credentialed or certified pursuant to these regulations must not disclose any information he or she may have acquired from a client or patient, except:

- (A) With the written consent of such person;
- (B) In the case of death or disability when the client or patient is unable to consent, with the consent of a person legal authorized to consent on behalf of the decedent or client or patient;
- (C) When more than one person in a family received therapy conjointly, each such family member who is legally competent to execute a waiver must agree to the waiver referred to in this section. Without such a waiver from each family member legally competent to execute a waiver, a practitioner must not disclose information received from any family member who received therapy conjointly for any therapy session where the non-consenting family member was present;
- (D) As such privilege is limited by the laws of the state of Nebraska;
- (E) When the person waives the privilege by bringing charges against the credential holder; and
- (F) When there is a duty to warn under the limited circumstances set forth in Neb. Rev. Stat. § 38-2137.

013.04 DISCRIMINATION. Credential holders must provide professional assistance to clients or patients without discrimination on the basis of race, color, religion, sex, disability, marital status, national origin, age, familial status, and ancestry.

013.05 DUAL RELATIONSHIP. Credential holders must make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, credential holders must take appropriate professional precautions, such as seeking supervision or professional consultation, to ensure judgment is not impaired and no exploitation occurs. Dual relationships include, but are not limited to, business or close personal relationships with a client.

013.05(A) SEXUAL INTIMACY OR CONTACT. Sexual intimacy or contact with a client during the provision of professional services, 5 years preceding the provision of professional services, or with a former client less than 5 years following the last professional contact is prohibited.

- (i) Sexual Intimacy means any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. Sexual intimacy may or may not include sexual contact.
- (ii) Sexual contact includes sexual intercourse, either genital or anal, cunnilingus, fellatio, sodomy or the handling of breasts, genital areas, buttocks, or thighs whether clothed or unclothed, initiated or consented to by the credential holder.

013.05(B) EXPLOITATION. In the therapeutic relationship, credential holders need to be aware of the intimacy and responsibilities inherent in the therapeutic relationship and must avoid actions that seek to meet their personal needs at the expense of clients. Credential holders must be aware of their influential positions with respect to clients, and they must avoid exploiting the trust and dependency of such persons. Credential holders, therefore, must make every effort to avoid conditions and multiple relationships with clients that could

impair professional judgment or increase the risk of exploitation. Failure to comply with this standard is considered unprofessional conduct.

013.06 PROFESSIONAL RECORDS. Failure to comply with the following professional record requirements is unprofessional conduct:

- (A) Client records must be maintained a minimum of 5 years following termination of services. Records or documentation of the actual fact of clinical record destruction must be maintained for an additional 5 years;
- (B) Client records must be stored, safeguarded, and disposed of in ways that maintain confidentiality and in accord with applicable laws and professional standards;
- (C) Prior to the credential holder moving from the area, closing a practice, or prior to the death of the credential holder, a credential holder must arrange for the storage, transfer, or access to, or dispose of client records in ways that maintain confidentiality and safeguard the welfare of clients;
- (D) Client records must include a signed and dated informed consent agreement outlining confidentiality and the limitations of confidentiality, as well as the rights and responsibilities of the client in the client's file;
- (E) Client records must include documentation which reflect the services provided and include applicable release of information and discussions with other professionals; and
- (F) A credential holder must allow a client access to his or her records in accordance with Neb. Rev. Stat. §71-8401 to 71-8407.

013.07 PROFESSIONAL RELATIONSHIPS. A credential holder must safeguard the welfare of clients or patients and maintain professional relationships with clients or patients. Commission of any of the following acts or behavior constitutes unprofessional conduct.

- (A) Exploiting another person for one's own advantage;
- (B) Performing or agreeing to perform mental health services, social work, professional counseling, or marriage and family therapy that have been requested when such services are known to be contraindicated or unjustified;
- (C) Performing or agreeing to perform procedures that have been requested when such procedures are known to be outside of the mental health practice, social work, professional counseling, or marriage and family therapy scope of practice;
- (D) Verbally or physically abusing clients or patients;
- (E) Attempting to provide diagnostic or treatment information to patient(s) or client(s) that is beyond the credential holder's level of education, training and expertise;
- (F) Failing to make a referral when a referral is in the patient's or client's best interest;
- (G) Delegating to other personnel those client or patient related services for which the clinical skills and expertise of a credential holder are required;
- (H) Failure to safeguard the patient's or client's dignity and right to privacy;
- (I) Failure to take reasonable steps to clarify at the outset the following:
 - (i) Who is the client or patient; and
 - (ii) The relationship the practitioner will have with each person if there are multiple individuals present. This clarification includes the practitioner's role, the probable services to be provided, and the probable uses of the information obtained; or
- (J) Committing any act which endangers client or patient safety or welfare.

013.08 REFERRALS. If, for any reason, a credential holder is unable to provide therapeutic services to a client or patient, the credential holder must refer the client or patient to other credential holders. This may be done by directing the client or patient to specific credential holders or to a list or directory of credential holders who may be able to provide professional assistance. The referral must be documented in the client or patient's record. Failure to comply with this standard is unprofessional conduct.

013.09 SEXUAL HARASSMENT. A credential holder must not under any circumstances engage in sexual harassment of clients or patients. Sexual harassment includes 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 care to a client or patient;
- (B) Creating an intimidating, hostile, or offensive environment for the client or patient; or
- (C) Interfering with a patient's or client's ability to recover.

013.10 STUDENTS AND SUPERVISEES. Failure to comply with the following is considered unprofessional conduct:

- (A) A credential holder must not exploit the trust and dependency of students and supervisees.
- (B) A credential holder must be aware of his or her influential positions with respect to students and supervisees, and they must avoid exploiting the trust and dependency of such persons. Credential holders, therefore, must make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists must take appropriate precautions.
- (C) A credential holder must not provide professional services to current students or supervisees.
- (D) A credential holder must not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the credential holder and student or supervisee
- (E) A credential holder must take reasonable measures to ensure that professional services provided by supervisees are within the supervisees training, level of experience, and competence.
- (F) A credential holder must avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the credential holder's objectivity. When such situations cannot be avoided, credential holders must take appropriate precautions to maintain objectivity. Such relationships include, but are not limited to, those individuals with whom the credential holder has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.
- (G) A credential holder must not disclose information from a supervisee about a client or patient which is obtained as part of a professional relationship except with written authorization or waiver from or by the client or patient, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee.
- (H) A credential holder must sign-off as completed a supervisee's hours of experience, when the hours have been completed.

013.11 FAILURE TO COOPERATE WITH INVESTIGATIONS. Refusal to cooperate or failure to furnish requested information during any investigation by the Department.

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

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

Effective Date
07/28/04

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN
SERVICES REGULATION AND LICENSURE

172 NAC 94

~~TITLE 172 — PROFESSIONAL AND OCCUPATIONAL LICENSURE~~

~~CHAPTER 94 — LICENSURE OF MENTAL HEALTH PRACTITIONERS AND THE
CERTIFICATION OF MARRIAGE AND FAMILY THERAPISTS,
PROFESSIONAL COUNSELORS AND SOCIAL WORKERS~~

~~94-001 SCOPE AND AUTHORITY: These regulations apply to licensure of mental health practitioners and to the associated certifications of social workers, master social workers, professional counselors, and marriage and family therapists as defined by Neb. Rev. Stat. §§71-1,295 to 71-1,338 and the Uniform Licensing Law. Remains in section 001 of the proposed regulations as modified~~

~~Statute 38-2121, 38-2127, 38-110, and 38-121~~

~~license as a mental health practitioner is required if a person wishes to provide mental health services as defined in these regulations, unless s/he meets one of the exemptions identified in Neb. Rev. Stat. §71-1,312. An associated certificate in social work, professional counseling, and/or marriage and family therapy is necessary only if the individual wishes to represent himself/herself as a Social Worker, Certified Professional Counselor, and/or Certified Marriage and Family Therapist.~~

~~94-002 DEFINITIONS — Remains in section 002 of the proposed regulations as modified~~

~~Statute 38-2101~~

~~Act means Neb. Rev. Stat. §71-1,295 to 71-1,338 known as the Practice of Mental Health section of the Uniform Licensing Law.~~

~~Actually Engaged in the Practice of Social Work includes services and activities provided under the direct supervision of a person with at least a master's degree in social work from an approved educational program or services and activities which are classified by title or description of duties and responsibilities as social work practice. — Definition not required~~

~~Actively Engaged in the Practice of Marriage and Family Therapy includes services and activities provided under the direct supervision of a person with at least a master's degree in marriage and family therapy from a program approved by the Board, or services and activities that are classified by title or by description of duties and responsibilities as marriage and family therapy practice. — Definition not required~~

~~Approved Continuing Education Program means courses, clinics, forums, lectures, training programs, seminars, home study programs, publications, presentations, or video, satellite or other electronic interactive programs, including formal course presentations, that pertain to mental health or the associated certificates and are approved by the Board. — The Board does not approve continuing education programs~~

Approved Marriage and Family Therapy Program means:

Entire section moved to section 007 of the proposed regulations as modified

1. COAMFTE Accreditation: A program of graduate marriage and family therapy education and training approved by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or
2. Related Field: A program in a related field offered by a regionally accredited higher educational institution, such as, but not limited to social work, psychology, sociology, human services, human development, family relations or counseling, must show evidence of course work in the following:
 - a. Marriage and Family Studies: At least 9 semester hours or 13.5 quarter hours. Courses in this area should be a fundamental introduction to systems theory. The student should develop an understanding of family structures and functioning within the social systems framework (including environmental context) and regarding a diverse range of presenting issues (e.g. gender, cultural, substance abuse). Topic areas may include: systems theory, family development, family subsystems, blended families, gender issues in families, cultural issues in families, etc.

This area must have a major focus from systems theory orientation and encompass the social systems orientation. Survey or overview courses in which systems in one of several theories covered is not appropriate. Courses in which systems theory is the overarching framework and other theories are studied in relations to systems theory are appropriate.
 - b. Marriage and Family Therapy: At least 9 semester hours or 13.5 quarter hours. Courses in this area should have a major focus on family systems theory and systemic therapeutic interventions. This area is intended to provide a substantive understanding of the major theories of systems change, and the applied practices evolving from each theoretical orientation, including diagnosis/assessment of individuals, couples and families. Major theoretical approaches might include: strategic, structural, object relations, cognitive behavioral, intergenerational, and integrative models of therapy with individuals, couples, and families.
 - c. Human Development: At least 9 semester hours or 13.5 quarter hours. Courses in this area should provide knowledge of individual personality development and its normal and abnormal manifestations. The student should have relevant course work in human development across the life span which includes special issues that effect an individual's development (e.g. culture, gender, and human sexuality). Topic areas may include: human development, child/adolescent development, psychopathology,

personality theory, human sexuality, etc. This material should be integrated with systems concepts. Test and measurement courses are not accepted toward this area.

d. Professional Studies: At least 3 semester hours or 4.5 quarter hours. Courses in this area are intended to contribute to the professional development of the therapist. Areas of study should include the therapist's legal responsibilities and liabilities, professional ethics relevant to marriage and family issues, professional values and socialization, and the role of the professional organization, licensure or certification legislation, independent practice and interpersonal cooperation. Religious ethics courses and moral theology courses are not accepted toward this area.

e. Research: At least 3 semester hours or 4.5 quarter hours. Courses in this area should assist students in understanding and performing research. Topic areas may include: research methodology, quantitative methods, and statistics. Individual personality and test and measurement courses are not accepted toward this area.

f. Practicum: At least 6 semester hours or 9 quarter hours which includes 300 hours of supervised direct client contact with individuals, couples and families - of this 300 hours, no more than 150 hours may be with individuals.

Approved Mental Health Practice Program means an approved educational program consisting of a master's or doctoral degree, with the focus being primarily therapeutic mental health, from an institution of higher education approved by the Council for Higher Education Accreditation (CHEA) or its successor; and must meet either subsection 1 or 2 as follows: Entire section moved to section 007 of the proposed regulations as modified

1. Accredited Programs: The program must be accredited by one of the following accrediting agencies (a program in candidacy does not meet this section):

- a. Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE);
- b. Council for Accreditation of Counseling and related Educational Programs (CACREP);
- c. Council on Social Work Education (CSWE); or
- d. American Psychological Association (APA).

The program must also include a practicum or internship as follows:

- a. For individuals who completed the practicum/internship before September 1, 1995, the practicum/internship must have been from an approved educational program.

- ~~b. For individuals who completed the practicum/internship after September 1, 1995, the practicum/internship must have included a minimum of 300 clock hours of direct client contact of which 150 clock hours must be face-to-face in a work setting, under the supervision of a qualified supervisor as defined in 172 NAC 81-002. Any artificial situation where a person presents a problem, such as role playing, is not acceptable; or~~
- ~~2. Other Programs: If the program is not accredited by the agencies identified in section 1 above, the Graduate course work, must have an emphasis on the provision of mental health practice, and include coursework in each of the following:
 - ~~a. A supervised practicum or internship:
 - ~~(1) If an applicant completed the practicum/internship before September 1, 1995, the practicum/internship must have been from an approved educational program.~~
 - ~~(2) If an applicant completed the practicum/internship after September 1, 1995, the practicum/internship must have included a minimum of 300 clock hours of direct client contact of which 150 clock hours must be face-to-face in a work setting, under the supervision of a qualified supervisor as defined in 172 NAC 94-002. Any artificial situation where a person presents a problem, such as role playing, is not acceptable.~~~~
 - ~~b. Theories and Techniques: At least 6 semester hours or 9 quarter hours. Courses that cover therapeutic techniques and strategies for human behavioral intervention. This includes major contributions of the biological, behavioral, cognitive, and social sciences relevant to understanding assessment and treatment of the person and his/her environment with emphases on the social systems framework, personality theories and development through the life cycle, and their application.~~
 - ~~c. Professional Ethics: At least 3 semester hours or 4.5 quarter hours. The application of ethical and legal issues to the practice. Examples are: family law, codes of ethics, boundaries, peer review, record keeping, confidentiality, informed consent, and duty to warn.~~
 - ~~d. Assessment Techniques: At least 3 semester hours or 4.5 quarter hours. Includes the process of collecting pertinent data about client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment and/or referral. Examples are: ability to make a clinical diagnostic impression, knowledge of psychopathology, and assessment of substance abuse and other addictions.~~~~

- e. Human Growth and Development: At least 3 semester hours or 4.5 quarter hours. The integration of the psychological, sociological and biological approaches within the life cycle. Examples are: awareness of culture, gender, or human sexuality at developmental levels, human behavior (normal and abnormal), personality theory, and learning theory.
- f. Research and Evaluation: At least 3 semester hours or 4.5 quarter hours. Includes such areas as statistics or research design and development of research and demonstration proposals.
- g. Undergraduate Courses: Graduate programs accepting an undergraduate course(s) as meeting the course criteria in subsection 2b through 2f will be acceptable. The school must submit a notarized letter, on institutional letterhead, from an authorized person, i.e., the Department Chair of the program, stating the undergraduate course(s) was accepted to meet the educational requirement(s) of the master's degree.

Approved Professional Counseling Program means: Entire section moved to section 007 of the proposed regulations as modified

- 1. CACREP Accredited: A program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP); or
- 2. Regionally Accredited: A counseling program from a regionally accredited higher educational institution, which must include graduate course work in each of the following:
 - a. Counseling Theory: At least 3 semester hours of graduate coursework that cover therapeutic techniques and strategies for human behavioral intervention which includes a study of basic theories, principles and techniques of counseling and their application to professional counseling settings;
 - b. Supervised Counseling Practicum: Refers to supervised counseling experience in a work/community based setting for a minimum of 3 semester hours academic credit as part of a master's program component; and
 - c. Completion of at least 3 semester hours of graduate course work in 5 out of 8 of the following areas:
 - (1) Human Growth and Development: Includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels. Emphasis is placed on biopsychosocial approaches. Also included are such areas as

human behavior (normal and abnormal), personality theory and learning theory.

- (2) Social and Cultural Foundations: Includes studies of change, ethnic groups, subcultures, changing roles of women, sexism, urban and rural societies, population patterns, cultural morals, use of leisure time and differing life patterns. Such disciplines as the behavioral sciences, economics and political science are involved.
- (3) The Helping Relationship: Includes philosophic bases of the helping relationship; consultation theory, practice, and application; and an emphasis on development of counselor and client (or consultee) self-awareness.
- (4) Group Dynamics, Processing and Counseling: Includes theory and types of groups, as well as descriptions of group practices, methods, dynamics, and facilitative skills. This also includes supervised practice.
- (5) Lifestyle and Career Development: Includes such areas as vocational choice theory, relationship between career choice and lifestyle, sources of occupational and educational information, approaches to career decision making processes and career exploration techniques.
- (6) Appraisal of Individuals: Includes the development of framework for understanding the individual including methods of data gathering and interpretation, individual and group testing, case study approaches, and the study of individual differences. Ethnic, cultural, and sex factors are also considered.
- (7) Research and Evaluation: Includes such areas as statistics, research design and development of research and demonstration proposals. It includes understanding legislation relating to the development of research, program development and demonstration proposals, as well as the development and evaluation of program objectives.
- (8) Professional Orientation: Includes goals and objectives of professional organizations, codes of ethics, legal considerations, standards of preparation, certification, licensing, and role identity of counselors and other personal services specialists.

~~An approved Social Work Program means an educational program as follows:~~ Entire section moved to section 007 of the draft regulations as modified

- ~~1. Baccalaureate degree: Undergraduate social work education and training approved by the Council on Social Work Education (CSWE).~~
- ~~2. Master's degree: Graduate social work education and training approved by the Council on Social Work Education (CSWE).~~
- ~~3. Doctoral degree programs: Recognized by the Groups for Advancement of Doctoral Education (GADE).~~

~~Assessment means the process of collecting pertinent data about client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment and/or referral.~~ Remains in section 002 of the proposed regulations as modified

~~Associated Certificate means a certificate issued to provide for the use of the title certified social worker, certified master social worker, certified professional counselor, or certified marriage and family therapist.~~ Definition not required

~~Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.~~ Found in 172 NAC 10

~~BAC means blood alcohol content.~~ Definition not required

Statute 38-2105

~~Board means the Board of Mental Health Practice.~~

Statute 38-2106

~~Certified Marriage and Family Therapist (CMFT) means a person who is certified to practice marriage and family therapy pursuant to the Uniform Licensing Law and who holds a current certificate issued by the Department.~~

Statute 38-2108

~~Certified Master Social Worker (CMSW) means a person who meets the standards established in subsection (1) of Neb. Rev. Stat. § 71-1,319 and who holds a current certificate issued by the Department.~~

Statute 38-2109

~~Certified Professional Counselor (CPC) means a person who is certified to practice professional counseling pursuant to the Uniform Licensing Law and who holds a current certificate issued by the Department.~~

Statute 38-2111

~~Certified Social Worker (CSW) means a person who meets the standards established in subsection (2) of Neb. Rev. Stat. § 71-1,319 and who holds a current certificate issued by the Department.~~

~~Client or Client System means an individual, couple, family or group in a professional work setting.~~ Remains in section 002 of the proposed regulations as modified

~~Code of Ethics means the actions or practices defined in 172 NAC 94-016 'Unprofessional Conduct', as defined in these regulations.~~ Definition not required

~~Collateral Contact means interactions with individuals on behalf of a client, but not necessarily in the presence of the client, that support, reinforce or otherwise affect the treatment process. Supervision is not considered as collateral contact.~~ Definition not required

~~Completed Application means an application with all of the information requested, the signature of the applicant, fees and all required documentation submitted.~~ Found in 172 NAC 10

Statute 38-145

Continuing Competency means to ensure:

1. The maintenance by a credentialed person of knowledge and skills necessary to competently practice mental health, marriage and family therapy, professional counseling, and/or social work;
2. The utilization of new techniques based on scientific and clinical advances, and
3. The promotion of research to assure expansive and comprehensive services to the public. It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. § 71-161.09.

Continuing Education is the method of continuing competency.

Continuing Education (CE) Hour or Credit is defined as follows:

Entire section moved to section 012 of the proposed regulations as modified

1. Academic credit:
 - a. 1 semester hour of academic credit equals 15 continuing education credit hours. 1 semester hour credit audited equals 8 hours of continuing education;
 - b. 1 quarter hour of academic credit equals 10 continuing education credit hours. 1 quarter hour credit audited equals 5 hours of continuing education; and
 - c. 1 trimester hour of academic credit equals 14 continuing education credit hours. 1 trimester hour credit audited equals 7 hours of continuing education.
2. Dissertations may accumulate up to 32 hours of continuing education per biennial renewal period.
3. Teaching: Hours granted for teaching a college/university course are calculated as stated in subsection 2 above; 30 of the 32 hours may be earned per biennial.
4. Home study programs may accumulate up to 20 hours of continuing education per biennial renewal period.
5. Publications may accumulate up to 20 hours of continuing education per biennial renewal period.
6. Educational/training videos may accumulate up to 10 hours of continuing education within a biennial renewal period.

~~7. Workshop Presenters may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program/course.~~

Statute 38-2112

~~Consultation means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a licensed psychologist or a qualified physician in which:~~

- ~~1. The consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant; and~~
- ~~2. The consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.~~

~~Counseling means a professional relationship in which a mental health practitioner assists another (client) to understand, cope with, solve, and/or prevent problems, such as, but not limited to areas of education, vocation, and/or interpersonal relationships in the social environment. Definition not required.~~

Statute 38-114

~~Department means the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.~~

Direct Client Contact means: Remains in Section 002 of the proposed regulations as modified

- ~~1. During a practicum direct client contact is contact between the practicum student and a client system, including collateral contacts, while providing mental health services. Supervisory sessions involving only the practicum student and supervisor will not be considered as direct client contact.~~
- ~~2. During completion of the 3,000 hours of supervised experience to fulfill postgraduate requirements for licensure direct client contact is face-to-face contact between a client system and a provisionally licensed mental health practitioner (PLMHP) while providing mental health services. Supervisory sessions involving only the PLMHP and supervisor will not be considered as direct client contact.~~

Statute 38-116

~~Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.~~

The Division Name has changed; this definition no longer applies

~~Division means the Credentialing Division of the Department of Health and Human Services, Regulation and Licensure of the State of Nebraska.~~

~~Ethical Standards means the current Ethical Standards of the American Association of Marriage and Family Therapy (AAMFT), the National Association of State Social Workers~~

~~(NASW), and the National Board for Certified Counselors (NBCC) as the Code of Professional Conduct for Mental Health Practice in Nebraska. A practitioner is required to comply with the ethical regulations of the National Association under which the practitioner holds an associated certificate. If the practitioner holds only the license as a mental health practitioner, s/he is not required to comply with the AAMFT, NASW, or the NBCC ethical standards. Copies of the Ethical Standards are available from the appropriate Association.~~
Removed and replaced with section 013 of the proposed regulations as modified to apply to all licensees and certificate holders

Statute 38-117

~~Inactive Certification means the voluntary termination of the right or privilege to practice social work, professional counseling, or marriage and family therapy. The certificate holder retains the right or privilege to represent himself or herself as having an inactive certificate.~~

Statute 38-117

~~Inactive License means the voluntary termination of the right or privilege to provide mental health services. The licensee retains the right or privilege to represent himself or herself as having an inactive license.~~

~~Internship or Practicum means:~~ Entire section moved to section 007 of the proposed regulations as modified

1. ~~For mental health practice it is the experience that an intern gained in a program of higher education accredited by the accrediting agency for the Council for Higher Education Accreditation (CHEA) or its successor. Internships or practicums completed after September 1, 1995, must include a minimum of 300 clock hours of direct client contact under the supervision of:~~
 - a. ~~Hours earned Before September 1, 1994:~~ A qualified physician, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before September 1, 1994; or
 - b. ~~Hours earned After September 1, 1994:~~ A qualified physician, a licensed psychologist, a licensed mental health practitioner for any hours completed after September 1, 1994, or an equivalent license in another jurisdiction;
2. ~~For marriage and family therapy, it is defined in 172 NAC 94-002 "Approved Marriage and Family Therapy Program"; and~~
3. ~~For professional counseling, it is defined in 172 NAC 94-002 "Approved Professional Counseling Program".~~

Statute 38-147

~~Lapsed Certificate means the voluntary termination of the right or privilege to represent oneself as a certified person and to practice social work, professional counseling, or marriage and family therapy.~~

Statute 38-118

~~Licensed means an individual who holds a current license to practice.~~

Statute 38-2116

~~Licensed Mental Health Practitioner (LMHP) means a person who holds himself/herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services.~~

- ~~1. A person who is licensed as a mental health practitioner and certified as a master social worker may use the title Licensed Clinical Social Worker (LCSW).~~
- ~~2. A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title Licensed Professional Counselor (LPC).~~
- ~~3. A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title Licensed Marriage and Family Therapist (LMFT).~~

~~Major Mental Disorder means any mental and emotional disorder in which the following behaviors occur or might reasonably be expected to occur regardless of specific diagnoses or the nature of the presenting complaint: Entire section remains in section 002 of the proposed regulations as modified~~

- ~~1. Persistent and/or severe suicidal or homicidal thinking and/or behaviors;~~
- ~~2. Persistent and/or severe behaviors injurious to self and/or others;~~
- ~~3. Psychotic symptoms which include delusions, hallucinations, or formal thought disorders; or~~
- ~~4. Physical complaints or signs suggestive of deterioration or anomaly in physiological, psychophysiological or neuropsychological functioning.~~

~~The following diagnoses as referenced in the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases are major mental disorders:~~

- ~~1. Schizophrenia;~~
- ~~2. Major depressive disorder;~~
- ~~3. Bipolar disorder;~~
- ~~4. Delusional disorder;~~
- ~~5. Psychotic disorder;~~
- ~~6. Panic disorder; and~~
- ~~7. Obsessive compulsive disorder.~~

~~Certain diagnoses which are referenced in the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases, such as dissociative disorders, post traumatic stress disorder, dissociative identity disorder, severe eating disorder, and borderline personality disorder, are more likely than others to demonstrate one or more of the above behavioral criteria, although these diagnoses alone do not constitute a major mental disorder.~~

~~Persons who have exhibited behaviors consistent with a major mental disorder in the past have an increased probability of exhibiting such behaviors in the future, especially under stress.~~

Statute 38-2114

~~Marriage and Family Therapy means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems through the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such disorders.~~

~~Mental Health means the relative state of emotional well-being, freedom from incapacitating conflicts, and the consistent ability to make and carry out rational decisions and cope with environmental stresses and internal pressures.~~ Remains in section 002 of the proposed regulations as modified

~~Mental Health Focus means an educational process consisting of mental health theories, techniques, practices, and methods necessary to prepare a mental health professional to identify, assess, and intervene with a client population for the primary purposes of providing or resulting in the clients optimal mental health.~~ Remains in section 002 of the proposed regulations as modified

~~Mental Illness means impaired psychosocial or cognitive functioning due to disturbances in any one or more of the following processes: biological, chemical, physiological, genetic, psychological, social, or environmental. Mental illness is extremely variable in duration, severity, and prognosis, depending on the specific type of affliction.~~ Remains in section 002 of the proposed regulations as modified

Statute 38-2115

~~Mental Health Practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations; and includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.~~

1. ~~Mental health practice does not include:~~
 - a. ~~The practice of psychology or medicine;~~
 - b. ~~Prescribing drugs or electroconvulsive therapy;~~
 - c. ~~Treating physical disease, injury, or deformity;~~
 - d. ~~Diagnosing major mental illness or disorder except in consultation with a qualified physician or licensed clinical psychologist;~~
 - e. ~~Measuring personality or intelligence for the purpose of diagnosis or treatment planning;~~
 - f. ~~Using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician or licensed clinical psychologist; or~~
 - g. ~~Using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed clinical psychologist.~~

~~Mental Health Practice Examination means:~~ **Moved to section 010 of the proposed regulations as modified**

- ~~1. The Association of Social Work Boards (ASWB) Clinical examination (previously referred to as the Level C category);~~
- ~~2. The Association of Marital and the Family Therapy Regulatory Boards (AMFTRB);~~
- ~~3. The National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE);~~
- ~~4. The Examination for Professional Practice in Psychology (EPPP); or~~
- ~~5. An equivalent examination as determined by the Board.~~

Statute 38-2122

~~An applicant who by reason of educational background is eligible for certification as a Certified Master Social Worker, a Certified Professional Counselor, or a Certified Marriage and Family Therapist must take and pass the appropriate certification examination; those not eligible for certification in an associated field must take and pass the NBCC/NCE, NBCC/NCMHCE, or other examination as determined by the Board to be equivalent.~~

Statute 38-2117

~~Mental Health Program means an educational program in a field such as, but not limited to, social work, professional counseling, marriage and family therapy, human development, psychology, or family relations, the content of which contains an emphasis on therapeutic mental health and course work in psychotherapy and the assessment of mental disorders.~~

~~NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 94. **Definition not required**~~

~~Official Transcript means issued by and under the original seal of the educational institution. **Found in 172 NAC 10**~~

Statute 38-2118

~~Professional Counseling means the assessment and treatment of mental and emotional disorders within the context of professional counseling theory and practice of individuals, couples, families, or groups for remuneration and includes, but is not limited to:~~

- ~~1. Assisting individuals or groups through the counseling relationship to develop understanding, define goals, plan action, and change behavior with the goal of reflecting interests, abilities, aptitudes, and needs as they are related to personal and social concerns, educational progress, and occupations;~~
- ~~2. Appraisal activities which means selecting, administering, scoring, and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, except that nothing in this subdivision authorizes a certified professional counselor to engage in the practice of clinical psychology as defined in Neb. Rev. Stat. §71-1,222;~~
- ~~3. Referral activities which evaluate data to identify which persons or groups may better be served by other specialists;~~
- ~~4. Research activities which means reporting, designing, conducting, or consulting on research in counseling with human subjects;~~

5. ~~Therapeutic, vocational, or personal rehabilitation in relationship to adapting to physical, emotional, or intellectual disability; and~~
6. ~~Consulting on any activity listed in this section.~~

Statute 38-2129

~~Provisionally Certified Master Social Worker means a person who needs to obtain the required three thousand hours of supervised experience in social work as specified in Neb. Rev. Stat. § 71-1,319 to qualify for certification as a master social worker must obtain a provisional certification as a master social worker.~~

Statute 38-2123

~~Provisionally Licensed Mental Health Practitioner means a person who needs to obtain the required three thousand hours of supervised experience in mental health practice as specified in Neb. Rev. Stat. § 71-1,314 to qualify for a mental health practitioner license and who must obtain a provisional mental health practitioner license.~~

~~Psychotherapy means a specialized formal interaction between a mental health practitioner and a client in which a therapeutic relationship is established to help to resolve symptoms of mental disorder, psychosocial stress, relationship problems and difficulties in coping in the social environment. Some specific types of psychotherapy may include, but are not limited to, psychoanalysis, family therapy, group psychotherapy, supportive treatment, gestalt therapy, experiential therapy, primal therapy, psychosocial therapy, psychodrama, behavioral therapy, clinical hypnosis, addiction therapy, and cognitive therapy.~~ **Remains in section 002 of the proposed regulations as modified**

~~Qualified Physician means an individual with a current license to practice medicine and surgery and has specialized training in mental health treatment or is a Board-Certified Psychiatrist.~~ **Remains in section 002 of the proposed regulations as modified**

~~Qualified Supervisor means an individual who assumes the responsibility of supervision during the 3,000 hours of post-master's experience.~~ **Remains in section 002 of the proposed regulations as modified**

Items 1-3 moved to section 008 of the proposed regulations as modified.

1. ~~For marriage and family therapy certification a licensed mental health practitioner, licensed psychologist, or licensed physician who:~~
 - a. ~~Holds a current active license;~~
 - b. ~~Has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding the application for a provisional license. At least 1 year must have elapsed following completion of any disciplinary terms and conditions. If any of these actions are taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department; and~~
 - c. ~~Holds an "approved supervisor's" designation certificate from the American Association for Marriage and Family Therapy; or~~
 - d. ~~Provides evidence of training in clinical supervision equivalent to 15 hours. Evidence must be shown through academic course work, continuing education, or consultation with a qualified marriage and~~

family therapy supervisor, and has 3 years of experience supervising the provision of marriage and family therapy services.

2. For mental health practice licensure a qualified physician, a licensed psychologist, a licensed mental health practitioner, or a similar license/certification in another jurisdiction, who:
 - a. Holds a current active license; and
 - b. Has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding the application for a provisional license. At least 1 year must have elapsed following completion of any disciplinary terms and conditions. If any of these actions are taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department.
3. For master social work certification a certified master social worker, who:
 - a. Holds a current active certificate; and
 - b. Has had no disciplinary action during the 5 years immediately preceding application for a provisional certificate or during the supervision period. If discipline occurs, the supervisor must terminate the supervision immediately and notify the Department.

Statute 38-2119

Social Work Practice or the Practice of Social Work means the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice:

1. Information, resource identification and development, and/or referral services;
2. Preparation and evaluation of psychosocial assessments and development of social work service plans;
3. Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;
4. Development, implementation, evaluation, and/or administration of social work programs and policies;
5. Supportive contacts to assist individuals and groups with personal adjustment to crisis, transition, economic changes, or a personal or family member's health condition, especially in the area of services given in hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, and correctional facilities;
 - a. Nothing in this section prevents charitable and religious organizations; the clergy; governmental agencies; hospitals; health clinics; home health agencies; schools; shelters for the homeless; shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence; nursing homes; or correctional facilities from providing supportive contacts to assist individuals and groups with adjustment to crisis, transition, economic change, or personal or a family member's health condition if such persons or organizations do not represent himself/herself to be social workers or provides mental health services;

6. ~~Social casework for the prevention of psychosocial dysfunction, disability, or impairment; and~~
7. ~~Social work research, consultation, and education.~~
8. ~~Social work practice does not include:~~
 - a. ~~The measuring and testing of personality or intelligence;~~
 - b. ~~Accepting fees or compensation for the treatment of disease, injury, or deformity of persons by drugs, surgery, or any manual or mechanical treatment whatsoever;~~
 - c. ~~Prescribing drugs or electroconvulsive therapy; and~~
 - d. ~~Treating organic diseases or major psychiatric diseases, except by an individual seeking to fulfill postgraduate requirements for licensure under the supervision of a licensed professional as provided in Neb. Rev. Stat. § 71-1,312.~~
9. ~~An individual who practices within the confines of this section shall not be required to be licensed as a mental health practitioner or certified as a social worker as long as s/he does not represent himself/herself as a mental health practitioner or as a social worker.~~

~~Supervision means the successful completion of 3,000 hours of supervised experience after receipt of the master's degree and during the 5 years immediately preceding the application for licensure and/or certification. The supervised experience must:~~ **Entire section moved to section 009 of the proposed regulations as modified**

1. ~~Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;~~
2. ~~Include a process which is distinguishable from personal psychotherapy or didactic instruction; and~~
3. ~~Consist of at least 1,500 hours of direct client contact in a setting where mental health services are being offered during which:~~
 - a. ~~The supervisee apprises the supervisor of the diagnosis and treatment of clients;~~
 - b. ~~The clients' cases are discussed;~~
 - c. ~~Ethical principles of the profession are discussed;~~
 - d. ~~The supervisor provides the supervisee with oversight and guidance in treating and dealing with clients; and~~
 - e. ~~The supervisor evaluates the supervisee's performance.~~

~~Supervision for Marriage and Family Therapy Certification must also include:~~

1. ~~A minimum of 1,500 hours of direct client contact with a minimum cumulative ratio of 2 hours of face-to-face contact between the supervisee and a qualified supervisor per 15 hours of the supervisee's contact with clients, no more than 45 hours may be accumulated without supervision;~~
2. ~~The supervisor can not supervise more than 6 persons at 1 face-to-face supervisory setting; and~~
3. ~~Not more than 1,500 hours of supervised experience, which includes, but is not limited to, review of client records, case conferences, direct observation, and video observation.~~

~~Supervision for Mental Health Practice must also include:~~

- ~~1. A minimum of 1,500 hours of direct client contact in a setting where mental health services are being offered.~~
- ~~2. No more than 1,500 hours of non-direct service, which includes, but is not limited to, review of client records, case conferences, direct observation, and video observation.~~
- ~~3. Evaluative face-to-face contact for a minimum of 1 hour per week between the supervisee and supervisor.~~

~~Supervision for Master Social Work Certification, when conducted within the confines of 172 NAC 94-002 (definition of social work), is:~~

- ~~1. The written records of services or procedures are examined and evaluative interviews are conducted by a certified master social worker; and~~
- ~~2. When a person wishes to apply for a license and certificate, supervision must be provided under a licensed clinical social worker (LCSW) and in accordance with this section.~~

~~Therapeutic Mental Health means systematic processes and activities used by mental health professionals and designed to remedy, cure, or abate mental health concerns, disabilities, or problems. Definition not required~~

~~Verified means sworn to before a Notary Public. This term is NO longer used in statute.~~

94-003 MENTAL HEALTH PRACTITIONER (LMPH) LICENSE REQUIREMENTS: No person may represent himself/herself to be a mental health practitioner unless licensed and no person shall engage in the practice of mental health unless s/he is licensed, except individuals who meet the criteria pursuant to Neb. Rev. Stat. §§71-1,312(1) through 71-1,312(10). **Remains in section 003 of the proposed regulations as modified**

Items #1-10, repeats Statute 38-2121.

Exceptions from licensure as a mental health practitioner include:

- ~~1. Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;~~
- ~~2. Alcohol and drug abuse counselors who are certified by the Office of Mental Health, Substance Abuse, and Addictions of the Department of Health and Human Services from practicing their profession. Such exclusion includes students training and working under the supervision of a certified alcohol and drug abuse counselor to become certified;~~
- ~~3. Any person employed by an agency, bureau, or division of the federal government from discharging his/hers official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed health practitioner, s/he must be licensed;~~
- ~~4. Teaching or the conduct of research related to mental health services or consultation with organizations or institutions of such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;~~

5. ~~The delivery of mental health services by:
 - a. ~~Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or~~
 - b. ~~Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional Board;~~~~
6. ~~Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;~~
7. ~~The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;~~
8. ~~Any person employed by an agency or department of the State of Nebraska from discharging official duties within such agency or Department during the six years immediately following September 1, 1994, except that no person should represent himself or herself as a licensed mental health practitioner unless s/he holds such a license;~~
9. ~~Any person providing emergency crisis intervention or referral services or limited (temporary) services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice; or~~
10. ~~Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.~~

The criteria for the issuance of a license and the documentation required by the Department and the Board are set forth below.

94-003.01 INITIAL LICENSURE Remains in section 003 of the proposed regulations as modified

94-003.01A Requirements: A person applying for a license to practice mental health, must:

Statute 38-2122

1. ~~Have a master's or doctorate degree of which the course work and training leading to the degree was primarily therapeutic mental health in content as defined in 172 NAC 94-002, and included a practicum or internship. A practicum or internship which is completed after September 1, 1995, must include a minimum of 300 clock hours of direct client contact under supervision;~~

Statute 38-2122

2. ~~Have 3,000 hours of supervised experience in mental health practice as defined in 172 NAC 94-002. The hours must have been earned after receipt of the master's degree and during the 5 years immediately preceding the application of license;~~

Statute 38-2122

3. ~~Have passed the mental health practice examination as defined in 172 NAC94-002 and as determined by the Board, with a minimum score as specified below;~~

Examination and score language moved to section 010 of the proposed regulations as modified

- a. ~~Social Work: An individual who holds a master's or doctorate degree in social work from an approved education program must take the Clinical Category of the ASWB examination and pass with a minimum scaled score of 75.~~
- b. ~~Professional Counseling: An individual who by reason of educational background is qualified to be certified as a certified professional counselor must take the National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE) and pass with a minimum score set at the National Cut Score.~~
- c. ~~Marriage and Family Therapy: An individual who by reason of educational background is qualified to be certified as a marriage and family therapist must take the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination and pass with a minimum score set at the National Pass Point.~~
- d. ~~Any other examination determined by the Board to be equivalent with a minimum score determined by the Board.~~

Statute 38-129

4. ~~Have attained at least the age of majority and have good moral character.~~

94-003.01B Application Process: The following must be submitted to the Department:

1. ~~A complete application on Attachment A attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered;~~

Found in 172 NAC 10

2. ~~An official transcript showing proof of a master's or doctoral degree from an approved educational program;~~ **Remains in section 003 of the proposed regulations as modified**

3. ~~Documentation of 3,000 hours of supervised experience in the practice of mental health on Attachment A1 attached to these regulations and incorporated by this reference or an alternate form which contains the~~

~~same information;~~ Remains in section 003 of the proposed regulations as modified

4. ~~Documentation of completion of a practicum/internship.~~ Remains in section 003 of the proposed regulations as modified
 - (1) ~~For practicums or internships completed after September 1, 1995, documentation that the practicum or internship consisted of 300 clock hours of direct client contact under supervision on Attachment A2, attached to these regulations and incorporated by this reference of an alternate form which contains the same information.~~
 - (2) ~~For practicums or internships completed before September 1, 1995, the practicum/internship must be identified as such on the official transcript.~~
 5. ~~Official documentation of passing the licensure examination;~~ Remains in section 003 of the proposed regulations as modified
 6. ~~If not submitted with a provisional license as specified in 172 NAC 94-004 or 94-006, evidence of having attained at least the age of majority, examples of evidence are:~~ Moved to instructions (guidance) as part of the application for a license
 - a. ~~Driver's license;~~
 - b. ~~Birth certificate;~~
 - c. ~~Marriage license;~~
 - d. ~~Official transcript which provides date of birth; or~~
 - e. ~~Other similar documentation;~~
 7. ~~If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;~~ Found in 172 NAC 10
 8. ~~If the applicant has been convicted of a felony or misdemeanor;~~
 - a. ~~Official Court Record, which includes charges and disposition;~~
 - b. ~~Copies of arrest records;~~
 - c. ~~BAC level (if conviction was alcohol related);~~
 - d. ~~A letter from the applicant explaining the nature of the conviction;~~
 - e. ~~All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - f. ~~A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and~~ Found in 172 NAC 10
- DHHS no longer administers the examination; applicants take the examination through a testing vender.
9. ~~One current photograph for the purpose of identification and admission into the examination;~~

~~10. If necessary, a completed request for special accommodations on Attachment G, and incorporated in these regulations by this reference or an alternate form which contains the same information;~~

~~11. Attestation by the applicant:~~

~~a. That s/he has not practiced in Nebraska prior to the application for a license; or~~

~~b. To the actual number of days practiced in Nebraska prior to the application for a license; and Found in 172 NAC 10~~

~~12. The required license fee. Found in 172 NAC 10~~

DHHS no longer administers the examination

~~94-003.01C Department Responsibility: The Department will notify the applicant of examination eligibility within 30 days of receipt of the application for licensure and will forward to the applicant a schedule of the date, time and place of the examination, and any additional information necessary for taking the examination.~~

Fees included in 172 NAC 2; Statute no longer assesses \$1 for the Licensee assistance program fee, see Statute 38-152

~~94-003.01D Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.~~

Statute 38-1,116

~~94-003.01E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

184 NAC 1, section 003

~~94-003.01F Department Review: The Department will act within 150 days upon all completed applications for license.~~

~~94-003.02 RECIPROCITY - Mental Health Practitioner Based on a License Issued in Another Jurisdiction - Moved to Section 006 of the proposed regulations as modified~~

~~94-003.02A Requirements: An applicant for a license to practice mental health on the basis of licensure from another jurisdiction must:~~

~~1. Provide documentation that the standards regulating the practice of mental health in the other jurisdiction are equivalent to those maintained in Nebraska; Moved to Section 006 of the proposed regulations as modified~~

Statute 38-2122

~~2. Have a master's or doctorate degree of which the course work and training leading to the degree was primarily therapeutic mental health in content as defined in 172 NAC 94-002, and included a practicum or internship. A practicum or internship which is completed after September 1, 1995, must~~

include a minimum of 300 clock hours of direct client contact under supervision;

3. Have passed the mental health practice examination as defined in 172 NAC 94-002 and as determined by the Board, with a minimum score as specified below;

Moved to section 010 of the proposed regulations as modified

- a. **Social Work:** An individual who holds a master's or doctorate degree in social work from an approved education program must take the Clinical Category of the ASWB examination and pass with a minimum scaled score of 75;
- b. **Professional Counseling:** An individual who by reason of educational background is qualified to be certified as a certified professional counselor must take the National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE) and pass with a minimum score set at the National Cut Score;
- c. **Marriage and Family Therapy:** An individual who by reason of educational background is qualified to be certified as a marriage and family therapist must take the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination and pass with a minimum score set at the National Pass Point;
- d. Any other examination determined by the Board to be equivalent with a minimum score determined by the Board;

Statute 38-129

4. Have attained at least the age of majority and have good moral character; and
5. Have been in the active and continuous practice under license or certification in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure. Moved to section 006 of the proposed regulations as modified

94-003.02B Application Process: The following must be submitted to the Department: Found in 172 NAC 10

1. A complete application on Attachment B attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered; Found in 172 NAC 10
2. An official transcript showing proof of a master's or doctoral degree in a mental health-related field from an approved educational program; Moved to section 006 of the proposed regulations as modified

3. ~~Evidence of having attained at least the age of majority, examples of evidence are:~~ **Moved to instructions (guidance) as part of the application for a license**
 - a. ~~Driver's license;~~
 - b. ~~Birth certificate;~~
 - c. ~~Marriage license;~~
 - d. ~~Official transcript which provides date of birth;~~ or
 - e. ~~Other similar documentation;~~

4. **If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition; Found in 172 NAC 10**

5. **If the applicant has been convicted of a felony or misdemeanor; Found in 172 NAC 10**
 - a. **Official Court Record, which includes charges and disposition;**
 - b. **Copies of arrest records;**
 - c. **BAC level (if conviction was alcohol related);**
 - d. **A letter from the applicant explaining the nature of the conviction;**
 - e. **All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and**
 - f. **A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;**

6. **Active Practice - Documentation that the applicant has been in the active and continuous practice under license or certification in the State, territory, or District of Columbia from which s/he comes for at least one year; and has been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure; Found in 172 NAC 10**

7. **Attestation by the applicant:**
 - a. **That s/he has not practiced in Nebraska prior to the application for a license; or**
 - b. **To the actual number of days practiced in Nebraska prior to the application for a license; and Found in 172 NAC 10**

8. **The required licensure fee . Found in 172 NAC 10**

94-003.02C Certification of Licensure from other State: ~~The applicant must have the licensing or certifying agency submit to the Department a certification of licensure or certification. The application may be submitted on Attachment B1 attached to these regulations and incorporated by this reference, or an alternate form which contains the same information. The certification must certify:~~ **Moved to section 006 of the proposed regulations as modified.**

1. That the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
2. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;
3. If the applicant's license or certification was based on the mental health practice examination as defined in 172 NAC 94-003.02A, item 3:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination; and
 - c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; or
4. If the applicant's license or certification was based on an examination other than an approved mental health practitioner examination:
 - a. The date of the applicant's license or certification;
 - b. The score attained on the examination;
 - c. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; and
 - d. Documentation that the examination taken is equivalent to the mental health practice examination.

~~94-003.02D Examination: If the applicant's license or certification was not based on the mental health practitioner examination as defined in 172 NAC 94-003.02A, item 3, or an examination determined to be equivalent, the applicant must take the mental health practitioner examination. Moved to section 010 of the proposed regulations~~

~~Statute 38-2125~~

~~94-003.02E Board Responsibilities: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in mental health practice in Nebraska and must make a recommendation to the Department.~~

~~Fee found in 172 NAC 2; Statutes no longer charge \$1 for the Licensee assistance program fee, see Statute 38-152.~~

~~94-003.02F Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.~~

~~Statute 38-1,116~~

~~94-003.02G Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

~~184 NAC 1, section 003~~

~~94-003.02H Department Review: The Department will act within 150 days upon all completed applications for license.~~

~~94-004 PROVISIONAL MENTAL HEALTH PRACTICE LICENSE REQUIREMENTS (PLMHP):~~

~~A person who needs to obtain the required 3,000 hours of supervised experience in mental health practice in Nebraska, as defined in 172 NAC 94-002, in order to qualify for a mental health practitioner license must obtain a provisional mental health before beginning his/her supervised experience. Any hours earned in Nebraska prior to the receipt of the provisional license may not be considered for a license as a mental health practitioner. —Moved to section 003 of the proposed regulations as modified~~

~~The criteria for the issuance of a provisional license and the documentation required by the Department and the Board are set forth below and only applies to those earning hours in Nebraska.~~

~~94-004.01 Requirements: A person applying for a provisional license to practice as a mental health practitioner must:~~

~~Statute 38-2123~~

- ~~1. Have a master's or doctorate degree of which the course work and training leading to the degree was primarily therapeutic mental health in content as defined in 172 NAC 94-002, and included a practicum or internship. A practicum or internship which is completed after September 1, 1995 must include a minimum of 300 clock hours of direct client contact under supervision;~~

~~Not required by Statute 38-2123~~

- ~~2. Have arranged supervision with a qualified supervisor in Nebraska; and~~

~~Statute 38-129~~

- ~~3. Have attained at least the age of majority and be of good moral character.~~

~~94-004.02 Application Process: The following must be submitted to the Department:~~

- ~~1. An application for a provisional mental health practice license. The application may be submitted on Attachment C attached to these regulations and incorporated by this reference or an alternate form that contains the same information. —Found in 172 NAC 10~~

- ~~2. Official Transcript verifying a master's or doctorate degree from an approved program, which includes coursework as follows: —Moved to section 003 of the proposed regulations as modified~~
 - ~~a. A practicum or internship as defined in 172 NAC 94-002;~~
 - ~~b. Coursework as defined in 172 NAC 94-002. If an individual has not completed all 5 course work areas as specified, the remaining area must be completed prior to licensure; and~~
 - ~~c. Official course descriptions for each course submitted (i.e., course catalogue, syllabi, etc) and indication of the course name and course number.~~

~~Not required by Statute 38-2123~~

- ~~3. Evidence of an assigned qualified supervisor;~~

4. ~~Evidence of having attained at least the age of majority, examples of evidence are:—~~ **Moved to instructions (guidance) as part of the application for a license**
 - a. ~~Driver's license;~~
 - b. ~~Birth certificate;~~
 - c. ~~Marriage license;~~
 - d. ~~Official transcript which provides date of birth; or~~
 - e. ~~Other similar documentation;~~

5. **If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition; Found in 172 NAC 10**

6. **If the applicant has been convicted of a felony or misdemeanor: Found in 172 NAC 10**
 - a. **Official Court Record, which includes charges and disposition;**
 - b. **Copies of arrest records;**
 - c. **BAC level (if conviction was alcohol related);**
 - d. **A letter from the applicant explaining the nature of the conviction;**
 - e. **All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and**
 - f. **A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;**

7. **Attestation by the applicant: Found in 172 NAC 10**
 - a. **That s/he has not practiced in Nebraska prior to the application for a license; or**
 - b. **To the actual number of days practiced in Nebraska prior to the application for a license; and**

8. **The required provisional license fee. Found in 172 NAC 10**

Statute 38-2123

~~94-004.03 Expiration of a Provisional License: A provisional mental health practice license expires upon the following conditions:~~

1. ~~Termination of supervision agreement or change in supervisor; or~~
2. ~~Receipt of the licensure as a mental health practitioner or 5 years after the date of issuance, whichever comes first.~~

~~94-004.03A An individual who does not complete the hours required for licensure within the specified 5 year period may re-apply one time for another provisional license.—~~ **Moved to section 003 of the proposed regulations as revised**

Statute 38-2123(3)

~~94-004.04 Client Notification: An individual who holds a provisional mental health practitioner license must inform all clients that s/he holds a provisional license and is practicing mental health under supervision and must identify the supervisor. Failure to make such a disclosure is a ground for discipline as set forth in Neb. Rev. Stat. §71-147.~~

Not required by Statute 38-2123

~~94-004.05 Change of Supervisor:~~ An individual who changes his/her supervisor or adds a new supervisor must submit an application within 30 days following the change. The application may be submitted on Attachment D attached to these regulations and incorporated by this reference or an alternate format which includes all information as specified in 172 NAC 94-004.01 and 94-004.02.

Not required by Statute 38-2123

~~94-004.06 Termination of Supervision:~~ If a supervisor or provisional licensee terminates supervision, s/he must notify the Department in writing immediately of the date of termination. The Department will record said termination date in the record.

Statute 38-1,116

~~94-004.07 Administrative Penalty/Other Action:~~ An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

184 NAC 1, section 003

~~94-004.08 Department Review:~~ The Department will act within 150 days upon all completed applications for license.

94-005 MASTER SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, OR PROFESSIONAL COUNSELOR CERTIFICATE REQUIREMENTS: An individual who is qualified to be licensed as a mental health practitioner may apply for an associated certification as a certified master social worker, a certified professional counselor, or a certified marriage and family therapist. **Moved to section 003 of the proposed regulations as modified**

An individual who practices pursuant to 172 NAC 94-002 (definition of social work) is not required to be licensed or certified as long as s/he does not represent himself/herself as a mental health practitioner or as a social worker. An individual may be certified without licensure as a master social worker or as a social worker if s/he practices pursuant to 172 NAC 94-002 (definition of social work).

94-005.01 INITIAL CERTIFICATION AS A CERTIFIED MASTER SOCIAL WORKER:

Any person who presents himself/herself as a social worker must be certified as a master social worker.

~~94-005.01A Requirements:~~ An applicant as a certified master social worker on the basis of an examination must:

Statute 38-2128

1. Have a master's or doctorate degree in social work from an approved education program approved by the Council on Social Work Education (CSWE) showing receipt of either the master's or doctorate degree in social work;

Statute 38-2128

2. ~~Have 3,000 hours of experience in the practice of social work as defined in 172 NAC 94-002 (definition of social work), under the supervision of a certified master social worker. The hours must have been earned following receipt of the master's or doctorate degree;~~

Moved to section 010 of the proposed regulations as modified

3. ~~Have passed the Clinical Social Work examination administered by the American Association of State Social Work Boards (ASWB) with a scaled score of 75 or higher; and~~

Statute 38-129

4. ~~Have attained at least the age of majority and have good moral character.~~

94-005.01B Application Process: The following must be submitted to the Department:

1. ~~A complete application on Attachment A or an alternate form which contains the same information. Only applications which are complete will be considered.~~ Found in 172 NAC 10
2. ~~An official transcript or certified documentation from an approved education program showing receipt of either the master's or doctorate degree in social work;~~ Moved to section 003 of the proposed regulations as modified
3. ~~Documentation of 3,000 hours of supervised experience in the practice of social work on Attachment A1;~~ Moved to section 003 of the proposed regulations as modified
4. ~~Official documentation of the examination score;~~ Moved to section 003 of the proposed regulations as modified
5. ~~Evidence of having attained at least the age of majority, examples of evidence are:~~ Moved to instructions (guidance) as part of the application for a license
 - a. ~~Driver's license;~~
 - b. ~~Birth certificate;~~
 - c. ~~Marriage license;~~
 - d. ~~Official transcript which provides date of birth; or~~
 - e. ~~Other similar documentation;~~
6. ~~If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;~~ Found in 172 NAC 10

~~7. If the applicant has been convicted of a felony or misdemeanor;~~

~~Found in 172 NAC 10~~

- ~~a. Official Court Record, which includes charges and disposition;~~
- ~~b. Copies of arrest records;~~
- ~~c. BAC level (if conviction was alcohol related);~~
- ~~d. A letter from the applicant explaining the nature of the conviction;~~
- ~~e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
- ~~f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~

~~8. Attestation by the applicant: Found in 172 NAC 10~~

- ~~a. That s/he has not represented herself/himself as a social worker in Nebraska prior to the application for a certificate; or~~
- ~~b. To the actual number of days represented herself/himself as a social worker in Nebraska prior to the application for a certificate; and~~

~~9. The required certification fee. Found in 172 NAC 10~~

~~Fee included in 172 NAC 2; Statutes no longer require charge of \$1 for the Licensee assistance program fee, see Statute 38-152.~~

~~94-005.01C Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, and the credential will be valid until the next subsequent renewal date. If the applicant is only applying for a social work certificate and not a mental health practice license, the Department will also collect the Licensee Assistance Program fee of \$1.~~

~~Statute 38-1,116~~

~~94-005.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

~~184 NAC 1, section 003~~

~~94-005.01E Department Review: The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Clinical Social Worker". last sentence deleted because DHHS no longer issues a letter as stated in this section, titles are addressed in the statutes under Statute 38-2116.~~

~~94-005.02 RECIPROCITY - CERTIFIED MASTER SOCIAL WORKER (BASED ON A LICENSE OR CERTIFICATION IN ANOTHER JURISDICTION) Moved to section 006 of the proposed regulations as modified~~

~~94-005.02A Requirements: An applicant for certification as a certified master social worker from another jurisdiction must:~~

Statute 38-2125

~~1. Qualify for licensure and have made application for a license as a mental health practitioner, except when s/he practices within the confines of 172 NAC 94-002 (definition of social work), licensure is not required;~~

Statute 38-2125

~~2. Have a Master's or Doctorate degree in social work from an approved education program;~~

~~3. Have been in the active and continuous practice under the license or certification in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for certification;~~ **Moved to section 006 of the proposed regulations as modified**

~~4. Have passed the Advanced Level C, Advanced or Clinical Social Work Certification examination administered by the Association of Social Work Boards (ASWB) or an equivalent examination with a scaled score of 75 or higher; and~~ **Moved to section 006 of the proposed regulations as modified**

Statute 38-129

~~5. Have attained the age of majority and have good moral character.~~

~~94-005.02B Application Process: The following must be submitted to the Department:~~

~~1. A complete application on Attachment B or an alternate form which contains the same information. Only applications which are complete will be considered;~~ **Found in 172 NAC 10**

~~2. An official transcript from an approved education program showing receipt of either the master's or doctorate degree in social work and/or certified proof of receipt of either a master's or doctorate degree in social work from an approved education program;~~ **Moved to section 006 of the proposed regulations as modified**

~~3. Evidence of having attained at least the age of majority, examples of evidence are:~~ **Moved to instructions (guidance) as part of the application for a license**

- a. Driver's license;
- b. Birth certificate;
- c. Marriage license;
- d. Official transcript which provides date of birth; or
- e. Other similar documentation;

4. ~~If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition; Found in 172 NAC 10~~
 5. ~~If the applicant has been convicted of a felony or misdemeanor:
Found in 172 NAC 10~~
 - a. ~~Official Court Record, which includes charges and disposition;~~
 - b. ~~Copies of arrest records;~~
 - c. ~~BAC level (if conviction was alcohol related);~~
 - d. ~~A letter from the applicant explaining the nature of the conviction;~~
 - e. ~~All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - f. ~~A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~
 6. ~~Documentation that the applicant has been in the active and continuous practice of social work for at least one year of the three years immediately preceding the date of application for a Nebraska certificate; or~~
 - a. ~~Documentation that the applicant has been in the active and continuous practice of clinical social work for at least one year of the three years immediately preceding the date of application for a Nebraska license and certification, if the applicant intends to provide mental health services as defined in 172 NAC 94-002 (definition of social work); Moved to section 006 of the proposed regulations as modified~~
 7. ~~Attestation by the applicant:~~
 - a. ~~That s/he has not represented herself/himself as a social worker in Nebraska prior to the application for a certificate; or~~
 - b. ~~To the actual number of days represented herself/himself as a social worker in Nebraska prior to the application for a certificate; and Found in 172 NAC 10~~
 8. ~~The required certificate fee. Found in 172 NAC 10~~
- ~~94-005.02B1 The applicant must have the licensing or certifying agency submit to the Department;~~
1. ~~A certification on Attachment B1 or an alternate form which contains the same information, that the applicant is duly licensed or certified, that his/her license or certification has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement. Found in 172 NAC 10~~

~~2. The nature of disciplinary actions, if any, taken against the applicants license or certificate.~~ Found in 172 NAC 10

#3-5 moved to section 010 of the proposed regulations as modified

- ~~3. If the applicant's license or certification was based on the ASWB, Advanced Level C, Advanced or Clinical examination:~~
- ~~a. The date of the applicant's license or certification;~~
 - ~~b. The score attained on the examination; and~~
 - ~~c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; or~~
- ~~4. If the applicant's license or certification was based on an examination other than the ASWB, Advanced Level C, Advanced or Clinical Examination:~~
- ~~a. The date of the applicant's license or certification;~~
 - ~~b. The score attained on the examination; and~~
 - ~~c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued and that the examination taken is equivalent to the ASWB, Advanced Level C, Advanced or Clinical Examination; or~~
- ~~5. If the applicant's license or certification was not based on the ASWB, Advanced Level C, Advanced or Clinical examination, or an equivalent examination, the applicant must take the ASWB Advanced or Clinical examination.~~

~~94-005.02C Examination: If the applicant is intending to provide mental health services, and the applicant's license or certification was not based on the Advanced Level C or the ASWB Clinical examination, the applicant must take the ASWB Clinical examination.~~ Moved to section 010 of the proposed regulations as modified

Statute 38-2125

~~94-005.02D Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon standards which are equal to those maintained in social work by Nebraska and will make a recommendation to the Department.~~

Fee included in 172 NAC 2; statute no longer authorize \$1 for the Licensee assistance program fee, see Statute 38-152.

~~94-005.02E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, and the credential will be valid until the next subsequent renewal date. If the applicant is only applying for a social work certificate and not a mental health practice license, the Department will also collect the Licensee Assistance Program fee of \$1.~~

Statute 38-1,116

~~94-005.02F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty~~

~~pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

184 NAC 1, section 003

~~94-005.02G Department Review: The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Clinical Social Worker".~~ Last sentence deleted because DHHS no longer issues a letter as stated in this section, titles are addressed in the statutes under Statute 38-2116.

~~94-005.03 INITIAL CERTIFICATION AS A PROFESSIONAL COUNSELOR: Any person who represents himself/herself as a certified professional counselor must be certified as a certified professional counselor.~~ Moved to section 003 of the proposed regulations as modified

~~94-005.03A Requirements: An applicant for certification to represent oneself as a certified professional counselor on the basis of examination must:~~

- ~~1. Be licensed, or qualify for licensure and have made application for a license as a mental health practitioner;~~

Statute 38-2132

- ~~2. Have received a master's degree from an approved educational program as specified in 172 NAC 94-002;~~

Statute 38-2132

- ~~3. Have 3,000 hours of experience in professional counseling, as defined in 172 NAC 94-002, after receipt of a master's degree; and~~

Statute 38-2132 and section 010 of the proposed regulations as modified

- ~~4. Have passed the National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE) with a minimum score set at the National Cut Score.~~

~~94-005.03B Application Process: The following must be submitted to the Department:~~

- ~~1. A complete application on Attachment A, or an alternate form which contains the same information. Only applications which are complete will be considered.~~ Found in 172 NAC 10

- ~~2. An official transcript from an approved educational program showing receipt of a master's degree or certified documentation of receipt of a master's degree from an approved educational program;~~ Moved to section 003 of the proposed regulations as modified

3. ~~Documentation of 3,000 hours of experience in professional counseling after receipt of a master's degree;~~ Moved to section 003 of the proposed regulations as modified
4. ~~Official documentation of the examination score;~~ Moved to section 003 of the proposed regulations as modified

DHHS no longer administers the examination, computer administered through examination vendor

5. ~~If necessary, a completed request for special accommodations Attachment G attached to these regulations and incorporated by this reference or an alternate form which contains the same information;~~
6. ~~One current photograph for the purpose of identification and admission into the examination;~~

7. ~~Attestation by the applicant:~~ Found in 172 NAC 10
 - a. ~~That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or~~
 - b. ~~To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate; and~~

8. ~~The required certification fee.~~ Found in 172 NAC 10

DHHS no longer administers the examination, examinations are administered by computer through the examination vendor

~~94-005.03C Examination Information:~~ The Department will notify the applicant of examination eligibility within 30 days of receipt of the application for certification and will forward to the applicant a schedule of the date, time and place of the examination, and any additional information necessary for taking the examination.

~~94-005.03D Pro-rated Fee:~~ When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the credential will be valid until the next subsequent renewal date. Fees found in 172 NAC 2

Statute 38-1,116

~~94-005.03E Administrative Penalty/Other Action:~~ An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.

184 NAC 1, section 003

~~94-005.03F Department Review:~~ The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Professional Counselor". Last sentence deleted because DHHS statutes do not require a letter to be issued, titles are addressed in the statutes under Statute 38-2116.

~~94-005.04 RECIPROCIITY—CERTIFIED PROFESSIONAL COUNSELOR (BASED ON A LICENSE OR CERTIFICATE ISSUED IN ANOTHER JURISDICTION)~~ Moved to section 006 of the proposed regulations as modified

~~94-005.04A Requirements:~~ An applicant for certification as a certified professional counselor from another jurisdiction must:

1. Qualify for licensure and have made application for a license as a mental health practitioner;

~~Statute 38-2130~~

2. Have received a master's degree from an approved educational program as specified in 172 NAC 94-002;

~~Statute 38-2130~~

2. Have 3,000 hours of experience in professional counseling as defined in 172 NAC 94-002, after receipt of a master's degree;

~~Statute 38-2130~~

4. Have been in the active and continuous practice under the license or certification by examination in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for certification by reciprocity;

~~Statute 38-2130 and in section 010 of the proposed regulations as modified~~

5. Have passed the NBCC/NCE or NBCC/NCMHCE examination or an equivalent examination with a minimum score set at the National Cut Score; and

~~Statute 38-129~~

6. Have attained at least the age of majority and have good moral character.

~~94-005.04B Application Process:~~ The following must be submitted to the Department: Found in 172 NAC 10

1. A complete application on Attachment B or an alternate form which contains the same information. Only applications which are complete will be considered Found in 172 NAC 10

2. An official transcript from an approved educational program showing receipt of a master's degree and/or certified documentation of receipt of a master's degree from an approved educational program; Moved to section 006 of the proposed regulations as modified

3. Documentation of 3,000 hours of experience in professional counseling after receipt of a master's degree;
Moved to section 006 of the proposed regulations as modified
4. Evidence of having attained at least the age of majority, examples of evidence are: **Moved to instructions (guidance) as part of the application for a license**
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license;
 - d. Official transcript which provides date of birth; or
 - e. Other similar documentation;
5. **If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition; Found in 172 NAC 10**
6. **If the applicant has been convicted of a felony or misdemeanor:**
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. BAC level (if conviction was alcohol related);
 - d. A letter from the applicant explaining the nature of the conviction;
 - e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; **Found in 172 NAC 10**
7. **Attestation by the applicant; Found in 172 NAC 10**
 - a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or
 - b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate;
8. **The required certification fee; and Found in 172 NAC 10**
9. Documentation that the applicant has been actively engaged in the practice of professional counseling or in an accepted residency or graduate training program for at least one year of the three years immediately preceding application for certification by reciprocity; and that such licensee or certificate holder has been in the active and continuous practice under license by examination in the State, territory, or District of Columbia from which s/he comes for at least one year. **Moved to section 006 of the proposed regulations as modified**

94-005.04B1 The applicant must have the licensing or certifying agency submit to the Department a certification of licensure or certification on Attachment B1 or

~~an alternate form which contains the same information. The certification must certify:~~ **Found in 172 NAC 10**

- ~~1. That the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;~~
- ~~2. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;~~
- ~~3. If the applicant's license or certification was based on the NBCC/NCE or NBCC/NCMHCE examination:
 - ~~a. The date of the applicant's license or certification;~~
 - ~~b. The score attained on the examination; and~~
 - ~~c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; or~~~~
- ~~4. If the applicant's license or certification was based on an examination other than the NBCC/NCE or NBCC/NCMHCE examination:
 - ~~a. The date of the applicant's license or certification;~~
 - ~~b. The score attained on the examination;~~
 - ~~c. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; and~~
 - ~~d. Documentation that the examination taken is equivalent to the NBCC/NCE or NBCC/NCMHCE examination.~~ **Moved to section 010 of the proposed regulations as modified**~~

~~94-005.04C Examination: If the applicant's license or certification was not based on the NBCC/NCE or NBCC/NCMHCE examination, or an equivalent examination, the applicant must take the NBCC/NCE or NBCC/NCMHCE examination.~~ **Moved to section 010 of the proposed regulations as modified**

Statute 38-2125

~~94-005.04D Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in professional counseling in Nebraska and will make a recommendation to the Department.~~

~~94-005.04E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the credential will be valid until the next subsequent renewal date.~~ **Found in 172 NAC 2**

Statute 38-1,116

~~94-005.04F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

184 NAC 1, section 003

~~94-005.04G Department Review:~~ The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Professional Counselor". ~~Last sentence deleted; statutes do not require a letter to be issued. Titles are addressed in the statutes under Statute 38-2116.~~

~~94-005.05 INITIAL CERTIFICATION - MARRIAGE AND FAMILY THERAPY:~~ Any person who represents himself/herself as a certified marriage and family therapist, must be certified as a marriage and family therapist. ~~Moved to section 003 of the proposed regulations as modified~~

~~94-005.05A Requirements:~~ An applicant for a certificate to represent oneself as a certified marriage and family therapist by examination must:

~~Statute 38-2133~~

- ~~1. Be licensed, or qualify for licensure and have made application for a license as a mental health practitioner;~~

~~Statute 38-2133~~

- ~~2. Have received a master's or doctoral degree in marriage and family therapy from a program approved by the Board or a graduate degree in a field determined by the Board to be related to marriage and family therapy and graduate-level course work determined by the Board to be equivalent to a master's degree in marriage and family therapy as defined in 172 NAC 94-002;~~

~~Statute 38-2133~~

- ~~3. Have received at least 3,000 hours of experience in marriage and family therapy under a qualified supervisor as defined in 172 NAC 94-002 following receipt of the graduate degree;~~

~~Statute 38-2133~~

- ~~4. Pass the AMFTRB certification examination with a minimum score set at the National Pass Point; and~~

~~Statute 38-129~~

- ~~5. Have attained at least the age of majority and have good moral character.~~

~~94-005.05B Application Process:~~ The following must be submitted to the Department:

- ~~1. A complete application on Attachment A, or an alternate form which contains the same information. Only applications which are complete will be considered.~~ ~~Found in 172 NAC 10~~

- ~~2. An official transcript from an approved educational program showing receipt of a master's degree or certified documentation of receipt of a master's degree from an approved educational program;~~ ~~Moved to section 003 of the proposed regulations as modified~~

~~3. Documentation of 3,000 hours of supervised experience in marriage and family therapy after receipt of a master's degree on a form provided by the Department as Attachment A1, or an alternate form which contains the same information;~~ Moved to section 003 of the proposed regulations as modified

~~4. Official documentation of the examination score;~~ Moved to section 003 of the proposed regulations as modified

~~5. Attestation by the applicant;~~ Found in 172 NAC 10

~~a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or~~

~~b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate; and~~

~~6. The required certification fee;~~ Found in 172 NAC 10

~~94-005.05C Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the credential will be valid until the next subsequent renewal date.~~ Found in 172 NAC 2

Statute 38-1,116

~~94-005.05D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

184 NAC 1, section 003

~~94-005.05E Department Review: The Department will act within 150 days upon all completed applications for license. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Marriage and Family Therapist".~~ Last sentence deleted; statutes do not require a letter to be issued, titles are addressed in the statutes under Statute 38-2116.

~~94-005.06 RECIPROcity - MARRIAGE AND FAMILY THERAPIST (BASED ON A LICENSE OR CERTIFICATE ISSUED IN ANOTHER JURISDICTION)~~ Moved to section 006 of the proposed regulations as modified

~~94-005.06A Requirements: An applicant for certification to represent oneself as a certified marriage and family therapist based on a credential issued by another jurisdiction must:~~

~~1. Qualify for licensure and have made application for a license as a mental health practitioner;~~

2. ~~Provide documentation that the standards regulating marriage and family therapy in the other jurisdiction are equivalent to those maintained in Nebraska;~~

Statute 38-2133

3. ~~Have received a master's or doctoral degree in marriage and family therapy from a program approved by the Board or a graduate degree in a field determined by the Board to be related to marriage and family therapy and graduate-level course work determined by the Board to be equivalent to a master's degree in marriage and family therapy as defined in 172 NAC 94-002;~~
4. ~~Pass the AMFTRB certification examination with a minimum score set at the National Pass Point;~~

Statute 38-129

5. ~~Have attained at least the age of majority and have good moral character; and~~
6. ~~Have been in the active and continuous practice under license or certification by examination in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for certification by reciprocity.~~

~~94-006.05B Application Process: The following must be submitted to the Department:~~ **Found in 172 NAC 10**

1. ~~A complete application on Attachment B or an alternate form which contains the same information. Only applications which are complete will be considered.~~ **Found in 172 NAC 10**
2. ~~An official transcript from an approved educational program showing receipt of a master's or doctoral degree and/or certified documentation of receipt of a master's or doctoral degree from an approved educational program;~~
3. ~~Official documentation of having been actively engaged in the practice of marriage and family therapy for at least 3,000 hours after receipt of a master's degree;~~
4. ~~Evidence of having attained at least the age of majority, examples of evidence are:~~
 - a. ~~Driver's license;~~
 - b. ~~Birth certificate;~~
 - c. ~~Marriage license;~~
 - d. ~~Official transcript which provides date of birth; or~~

e. ~~Other similar documentation;~~

5. ~~If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;~~ Found in 172 NAC 10

6. ~~If the applicant has been convicted of a felony or misdemeanor;~~ Found in 172 NAC 10

a. ~~Official Court Record, which includes charges and disposition;~~

b. ~~Copies of arrest records;~~

c. ~~BAC level (if conviction was alcohol related);~~

d. ~~A letter from the applicant explaining the nature of the conviction;~~

e. ~~All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~

f. ~~A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~

7. ~~Attestation by the applicant;~~ Found in 172 NAC 10

a. ~~That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or~~

b. ~~To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate;~~

8. ~~The required certification fee; and~~ Found in 172 NAC 10

9. ~~Documentation that the applicant has been actively engaged in the practice of marriage and family therapy or in an accepted residency or graduate training program for at least one year of the three years immediately preceding application for certification by reciprocity; and that such licensee or certificate holder has been in the active and continuous practice under license by examination in the State, territory, or District of Columbia from which s/he comes for at least one year.~~

~~94-006.05B1 The applicant must have the licensing or certifying agency submit to the Department a certification of licensure or certification on Attachment B2 or an alternate form which contains the same information. The certification must certify;~~ Found in 172 NAC 10

1. ~~That the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;~~

2. ~~The nature of disciplinary actions, if any, taken against the applicant's license or certificate;~~

3. ~~If the applicant's license or certification was based on the AMFTRB Certification examination;~~

- a. The date of the applicant's license or certification;
 - b. The score attained on the examination; and
 - c. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; or
4. If the applicant's license or certification was based on an examination other than the AMFTRB Certification examination:
- a. The date of the applicant's license or certification;
 - b. The score attained on the examination;
 - c. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued; and
 - d. Documentation that the examination taken is equivalent to the AMFTRB Certification examination.

~~94-005.06C Examination: If the applicant's license or certification was not based on the AMFTRB Certification examination, or an equivalent examination, the applicant must take the AMFTRB Certification examination.~~

Statute 38-2125

~~94-005.06D Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in marriage and family therapy in Nebraska and will make a recommendation to the Department.~~

~~94-005.06E Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25 and the credential will be valid until the next subsequent renewal date.~~ Found in 172 NAC 2

Statute 38-1,116

~~94-005.06F Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

184 NAC 1, section 003

~~94-005.06G Department Review: The Department will act within 150 days upon all completed applications for license applications for certification. The division will issue a letter of authority to individuals who hold a license and a certification stating they may use the title "Licensed Marriage and Family Therapist". Last sentence deleted because the statutes do not require a letter to be issued; titles are addressed in the statutes under Statute 38-2116.~~

94-006 PROVISIONAL CERTIFICATION AS A MASTER SOCIAL WORKER (PCMSW) REQUIREMENTS:

Statute 38-2129.

~~A person who needs to obtain the required 3,000 hours of supervised experience in social work as specified in 172 NAC 94-002 in order to qualify for a certification as a master social worker must obtain a provisional certification as a master social worker before beginning his/her supervised experience. Any hours earned prior to the receipt of the provisional certificate may not be considered for a certificate as a master social worker.~~

~~The criteria for the issuance of a provisional certificate and the documentation required by the Department and the Board are set forth below and only applies to those earning hours in Nebraska.~~

~~94-006.01 Requirements: A person applying for only a provisional certification as a master social worker must:~~

Statute 38-2129

~~1. Have a master's or doctorate degree from an approved social work program;~~

Statute 38-2129

~~2. Have arranged supervision with a qualified supervisor in Nebraska; and~~

Statute 38-129

~~3. Have attained at least the age of majority and be of good moral character.~~

~~94-006.02 Application Process: The following must be submitted to the Department:~~

~~1. An application for a provisional master social work certificate. The application may be submitted on Attachment C attached to these regulations and incorporated by this reference or an alternate form that contains the same information;~~

~~2. Evidence of an assigned qualified supervisor;~~

~~3. Official Transcript verifying a master's or doctorate degree from an approved social work master's program;~~

~~4. Evidence of having attained at least the age of majority, examples of evidence are:~~

~~a. Driver's license;~~

~~b. Birth certificate;~~

~~c. Marriage license;~~

~~d. Official transcript which provides date of birth; or~~

~~e. Other similar documentation;~~

~~5. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition; Found in 172 NAC 10~~

~~6. If the applicant has been convicted of a felony or misdemeanor; Found in 172~~

NAC 10

- a. Official Court Record, which includes charges and disposition;
- b. Copies of arrest records;
- c. BAC level (if conviction was alcohol related);
- d. A letter from the applicant explaining the nature of the conviction;
- e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;

7. Attestation by the applicant: Found in 172 NAC 10

- a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or
- b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate; and

8. The required provisional license fee. Found in 172 NAC 10

~~94-006.03 Expiration of a Provisional Certificate: A provisional master social work certificate will expire upon the following conditions:~~

- ~~1. Termination of Supervision Agreement or Change in Supervisor;~~
- ~~2. Receipt of the certificate as a master social worker or 5 years after the date of issuance, whichever comes first.~~

~~An individual who does not complete the hours required for certification within the specified 5 year period may re-apply one time for another provisional certificate.~~

Statute 38-2129

~~94-006.04 Client Notification: An individual who holds a provisional master social worker certificate must inform all clients that s/he holds a provisional certificate and is practicing social work under supervision and must identify the supervisor. Failure to make such a disclosure is a ground for discipline as set forth in Neb. Rev. Stat. §71-147.~~

~~94-006.05 Change of Supervisor: An individual who changes his/her supervisor or adds a new supervisor must submit an application within 30 days following the change. The application may be submitted on Attachment D attached to these regulations and incorporated by this reference or an alternate form which includes all information as specified in 172 NAC 94-006.01 and 94-006.02. A fee is not required for such change.~~

~~94-006.06 Termination of Supervision: If a supervisor or provisional licensee terminates supervision, s/he must notify the Department in writing immediately of the date of termination. The Department will record said termination date in the record.~~

Statute 38-1,116

~~94-006.07 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

184 NAC 1, section 003

~~94-006.08 Department Review:~~ The Department will act within 150 days upon all completed applications for license.

~~94-007 CERTIFIED SOCIAL WORKER:~~ An individual who practices pursuant to 172 NAC 94-002 (definition of social work) is not required to be licensed or certified as long as s/he does not represent himself/herself as a mental health practitioner or as a social worker. An individual may be certified as a social worker if s/he practices pursuant to 172 NAC 94-002.

~~94-007.01 INITIAL CERTIFICATION~~

~~94-007.01A Requirements:~~ An applicant for certification as a certified social worker must:

~~Statute 38-2128(2)~~

~~1. Have a baccalaureate degree, master's degree, or doctorate degree in social work from an approved education program; and~~

~~Statute 38-129~~

~~2. Have attained at least the age of majority and have good moral character.~~

~~94-007.01B Application Process:~~ The following must be submitted to the Department:

~~1. A complete application on Attachment E attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered; Found in 172 NAC 10~~

~~2. An official transcript from an approved education program showing receipt of either the baccalaureate or master's degree in social work and/or certified proof of receipt of either a baccalaureate or master's degree in social work from an approved education program;~~

~~3. Evidence of having attained at least the age of majority; Found in 172 NAC 10~~

~~4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition; Found in 172 NAC 10~~

~~5. If the applicant has been convicted of a felony or misdemeanor;~~
~~a. Official Court Record, which includes charges and disposition;~~
~~b. Copies of arrest records;~~
~~c. BAC level (if conviction was alcohol related);~~
~~d. A letter from the applicant explaining the nature of the conviction;~~
~~e. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~

~~f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;~~

~~Found in 172 NAC 10~~

~~6. Attestation by the applicant:~~

~~a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or~~

~~b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate; and~~

~~Found in 172 NAC 10~~

~~7. The required certification fee~~ Found in 172 NAC 10

~~94-007.01C Pro-rated Fee: When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the credential will be valid until the next subsequent renewal date.~~ Found in 172 NAC 2

~~Statute 38-1,116~~

~~94-007.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

~~184 NAC 1, section 003~~

~~94-007.01E Department Review: The Department will act within 150 days upon all completed applications for license.~~

~~94-007.02 RECIPROCITY - BASED ON A LICENSE OR CERTIFICATION IN ANOTHER JURISDICTION:~~

~~94-007.02A Requirements: An applicant for certification to practice social work as a certified social worker by another jurisdiction must:~~

~~Statute 38-2128(2)~~

~~1. Have a baccalaureate or master's degree in social work from an approved education program;~~

~~Statute 38-129~~

~~2. Have attained at least the age of majority and have good moral character; and~~

~~3. Have been in the active and continuous practice under license or certification in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or certificate or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for certification.~~

~~94-007.02B Application Process:~~ The following must be submitted to the Department:

- ~~1. A complete application on Attachment E, or an alternate form which contains the same information. Only applications which are complete will be considered;~~ Found in 172 NAC 10
- ~~2. An official transcript from an approved education program showing receipt of either the baccalaureate or master's degree in social work and/or certified proof of receipt of either a baccalaureate or master's degree in social work from an approved education program;~~
- ~~3. Evidence of having attained at least the age of majority, examples of evidence are:
 - ~~a. Driver's license;~~
 - ~~b. Birth certificate;~~
 - ~~c. Marriage license;~~
 - ~~d. Official transcript which provides date of birth; or~~
 - ~~e. Other similar documentation;~~~~
- ~~4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;~~ Found in 172 NAC 10
- ~~5. If the applicant has been convicted of a felony or misdemeanor;~~ Found in 172 NAC 10
 - ~~a. Official Court Record, which includes charges and disposition;~~
 - ~~b. Copies of arrest records;~~
 - ~~c. BAC level (if conviction was alcohol related);~~
 - ~~d. A letter from the applicant explaining the nature of the conviction;~~
 - ~~e. 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;~~
 - ~~f. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and~~
 - ~~g. Documentation that the applicant has been in the active and continuous practice of social work for at least one year of the three years immediately preceding the date of application for a Nebraska certificate;~~
- ~~6. The required certification fee; and~~ Found in 172 NAC 10
- ~~7. Attestation by the applicant;~~ Found in 172 NAC 10
 - ~~a. That s/he has not represented herself/himself as certified in Nebraska prior to the application for a certificate; or~~
 - ~~b. To the actual number of days represented herself/himself as certified in Nebraska prior to the application for a certificate.~~

~~94-007.02B1 The applicant must have the licensing or certifying agency submit to the Department a certification of licensure or certification on Attachment E1 or an Alternate form which contains the same information. The certification must certify:~~

~~Found in 172 NAC 10~~

- ~~1. That the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;~~
- ~~2. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;~~
- ~~3. The date of the applicant's license or certification; and~~
- ~~4. Documentation of the requirements for licensure in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued.~~

~~Statute 38-2125~~

~~94-007.02C Board Review: The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon requirements which are equal to those maintained in social work in Nebraska and will make a recommendation to the Department.~~

~~Statute 38-1,116~~

~~94-007.02D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020, or such other action as provided in the statutes and regulations governing the credential.~~

~~184 NAC 1, section 003~~

~~94-007.02E Department Review: The Department will act within 150 days upon all completed applications for license.~~

94-008 EXAMINATION ELIGIBILITY Moved to section 010 of the proposed regulations as modified

~~94-008.01 Mental Health Practice Examination: A mental health practitioner who does not qualify by his/her educational degree for one of the associated certifications must take the National Board for Certified Counselors National Clinical Mental Health Counselor Examination (NCMHCE) or the National Counselor Examination (NCE). Other examinations determined by the Board to be equivalent may be accepted in place of the NCMHCE or the NCE.~~ Moved to section 010 of the proposed regulations as modified

- ~~1. To be eligible to take the licensure examination for mental health practice, an applicant must:
 - ~~a. Have received a master's or doctorate degree from an approved program of which the course work and training leading to the degree was primarily therapeutic mental health in content; and~~
 - ~~b. Submit to the Department:
 - ~~(1) An application for examination on Attachment F attached to these regulations and incorporated by this reference or an alternate form which contains the same information;~~~~~~

~~(2) An official transcript showing proof of a master's or doctoral degree;
and~~

Exam fee submitted directly to the test vendor.

~~(3) The Examination Fee.~~

~~94-008.02 Master Social Work Certification Examination: To be eligible to take the certification examination for social work an applicant must:~~ **Moved to section 010 of the proposed regulations as modified**

- ~~1. Have received a master's or doctorate degree in social work from an approved program;~~
- ~~2. Submit to the Department:~~
 - ~~a. An application for examination on Attachment F or on an alternate format; and~~
 - ~~b. An official transcript showing proof of a master's or doctoral degree in social work.~~

~~94-008.03 Professional Counseling Certification Examination: To be eligible to take the certification examination for professional counseling an applicant must meet the requirements as specified in 172 NAC 94-005.03.~~ **Moved to section 010 of the proposed regulations as modified**

~~94-008.04 Marriage And Family Therapy Certification Examination. To be eligible to take the certification examination for marriage and family therapy an applicant must:~~ **Moved to section 010 of the proposed regulations as modified**

- ~~1. Have received a master's or doctoral degree in marriage and family therapy from a program approved by the Board or a graduate degree in a field determined by the Board to be related to marriage and family therapy and graduate-level course work determined by the Board to be equivalent to a master's degree in marriage and family therapy as defined in 172 NAC 94-002; and~~
- ~~2. Submit to the Department:~~
 - ~~a. An application for examination on Attachment F or an alternate form that includes the same information; and~~
 - ~~b. An official transcript showing proof of a master's or doctoral degree.~~

~~94-008.05 Special Accommodations: If special accommodations are requested, such request may be submitted on Attachment G attached to these regulations and incorporated by this reference or an alternate form which includes the same information.~~

All of Section 94-009 has been deleted. DHHS staff no longer administers the examination; as it is administered at computer testing sites (monitored by the testing vendors) across the U.S.

94-009 EXAMINATION ADMINISTRATION PROCEDURES

94-009.01 Administration:

- ~~1. Social Work Examination: The certification examination for social work will be administered by the testing service on the dates specified by the testing service of each year and the applicant will be notified of the information pertinent to administration of the examination by the Department.~~

- ~~2. Professional Counseling Examination: The certification examination for professional counseling will be administered by the Department, the testing service, or other entities authorized by NBCC.
 - ~~a. The dates for the examinations administered by the testing service or other authorized entities will be determined by said entities.~~
 - ~~b. The dates for the examinations administered by the Department will be determined by the Department and the applicant will be notified of the date, time, place and other information pertinent to the administration of the examination by the Department.~~~~
- ~~3. Marriage and Family Therapy Examination: The certification examination for marriage and family therapy will be administered by the testing service as determined by the AMFTRB, and the applicant will be notified of the information pertinent to the administration of the examination by the Department.~~

~~94-009.02 Notification of Examination Results: The Division will notify the applicant in writing of the licensure examination and the certification examination results within 6 to 12 weeks following the administration of such examination.~~

~~94-009.03 Failed Examinations: An examinee who fails the NBCC examination may retake the examination upon payment of the fee each time s/he is examined. The Department will withhold from the licensure/certification fee the cost of NBCC examination used and the administrative fee as authorized in Neb. Rev. Stat. § 71-163 when an examinee fails a licensure/certification examination and will return to the examinee the remainder of the licensure/certification fee collected, except that:~~

- ~~1. If any component of the national standardized examination is failed, the examinee will be charged the cost for purchasing such examination.~~
- ~~2. If an applicant for a license withdraws his/her application within 30 days of the examination, the examination booklets have been ordered by the Department, and the examining agency charges the Department for examination booklets ordered whether used or unused, the Department will withhold the cost of the examination and the administrative fee of as authorized in Neb. Rev. Stat. 71-163.~~
- ~~3. This section does not apply to retaking the examination for social work or marriage and family therapy.~~

~~94-009.04 Withdrawn Applications: An applicant for a license who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination, except as provided in 172 NAC 94-009.03 item 2, will be allowed the return of his/her fee, except for an administrative fee to be retained by the Department, as authorized in Neb. Rev. Stat. § 71-163.~~ Found in 172 NAC 10

~~94-010 RENEWAL PROCEDURES: All licenses and/or certificates issued by the Department pursuant to the Act and these regulations expire on September 1st of each even-numbered year. An individual who wishes to renew his/her associated certificate must first renew his/her license to practice mental health. An individual who places his/her license to practice mental health on inactive or lapsed status must also place his/her associated certificate on inactive or lapsed status. This does not apply to individuals who practice within the confines of 172 NAC 94-002~~

(definition of social work) and holds only a certificate as a master social worker or a certificate as a social worker. Moved to section 011 of the proposed regulations as modified

~~94-010.01 Renewal Process: Any licensee/certificate holder who wishes to renew his/her credential must:~~ Found in 172 NAC 10

- ~~1. Meet the continuing competency requirements as specified in 172 NAC 94-014;~~
- ~~2. Pay the renewal fee as prescribed in 172 NAC 94-019; and~~
- ~~3. Respond to the following questions:~~
 - ~~a. Has your license/certificate in any profession in another state been revoked, suspended, limited, or disciplined in any manner?~~
 - ~~b. Have you been convicted of a misdemeanor or felony?~~

~~These questions relate to the time period since the last renewal of the license/certificate or during the time period since initial credentialing in Nebraska if such occurred within the two years prior to the license/certificate expiration date;~~
- ~~4. Cause to be submitted to the Department:~~
 - ~~a. The renewal notice;~~
 - ~~b. The renewal fee;~~
 - ~~c. Attestation of completing 32 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing education. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;~~
 - ~~d. If any disciplinary action was taken against the applicant's license/certificate by another state, an official copy of the disciplinary action, including charges and disposition;~~
 - ~~e. If the licensee/certificate holder has been convicted of a felony or misdemeanor:~~
 - ~~(1) Official Court Record, which includes charges and disposition;~~
 - ~~(2) Copies of arrest records;~~
 - ~~(3) A letter from the licensee/certificate holder explaining the nature of the conviction;~~
 - ~~(4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - ~~(5) A letter from the probation officer addressing probationary conditions and current status, if the licensee/certificate holder is currently on probation.~~

~~94-010.02 First Notice: At least 30 days before September 1st of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee/certificate holder at their last place of residence as noted in the records of the Department. It is the responsibility of the licensee/certificate holder prior to the renewal period to notify the Department of any name and/or address changes.~~

Found in 172 NAC 10

~~94-010.02A The renewal notice will specify:~~

- ~~1. The name of the licensee/certificate holder;~~
- ~~2. The licensee/certificate holder's last known address of record;~~
- ~~3. The license number;~~

4. ~~The expiration date of the license;~~
5. ~~The renewal fee as prescribed in 172 NAC 94-019;~~
6. ~~The number of continuing education hours required for renewal; and~~
7. ~~The option to place the license on either inactive or lapsed status.~~

~~94-010.02B The licensee/certificate holder must apply for renewal by submitting to the Department:~~

1. ~~The renewal notice;~~
2. ~~The renewal fee;~~
3. ~~The licensee/certificate holder's social security number;~~
4. ~~Attestation of completing 32 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing education; and~~
5. ~~Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).~~

~~94-010.02C If the licensee/certificate holder wishes to place his/her license on either inactive or lapsed status s/he must:~~ **Lapsed status is no longer an option under the Uniform Credentialing Act**

Statute 38-142(3) and 172 NAC 10

1. ~~Request that his/her license be placed on inactive status by submitting to the Department:~~
 - a. ~~The renewal notice with a check in the box marked inactive; and~~
 - b. ~~The fee of \$25; or~~ **172 NAC 2 does not require a fee for inactive status**
2. ~~Request that his/her license be placed on lapsed status by submitting to the Department:~~
 - a. ~~The renewal notice with a check in the box marked lapsed.~~ **Lapsed status is no longer an option under the Uniform Credentialing Act (statute)**

~~94-010.02D The Department will notify the licensee/certificate holder in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.~~ **Lapsed status is no longer an option under the Uniform Credentialing Act (statute)**

Statute 38-142 requires only 1 renewal notice; removed all of 94-010.03

~~94-010.03 Second Notice: The Department will send to each licensee/certificate holder who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 94-010.01 that specify:~~

1. ~~That the licensee/certificate holder failed to pay the renewal fee;~~
2. ~~That the license has expired;~~
3. ~~That the licensee is subject to an administrative penalty pursuant to 172 NAC 94-020 if s/he practices after the expiration date;~~

- ~~4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency hours within that time, no order of revocation will be entered; and~~
- ~~5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 94-013.~~

~~94-010.03A The licensee/certificate holder must apply for renewal by submitting to the Department:~~

- ~~1. The renewal notice;~~
- ~~2. The renewal fee and the additional late fee of \$25;~~
- ~~3. The licensee/certificate holder's social security number;~~
- ~~4. Attestation by the licensee/certificate holder:
 - ~~a. That s/he has not practiced in Nebraska since the expiration of his/her license; or~~
 - ~~b. To the actual number of days practiced in Nebraska since the expiration of his/her license;~~~~
- ~~5. Attestation of completing 32 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing education; and~~
- ~~6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).~~

~~94-010.03A1 If the licensee/certificate holder wishes to place his/her license on either inactive or lapsed status s/he must:~~

- ~~1. Request that his/her license be placed on inactive status by submitting to the Department:
 - ~~a. The renewal notice with a check in the box marked inactive; and~~
 - ~~b. The fee of \$25; or~~~~
- ~~2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - ~~a. The renewal notice with a check in the box marked lapsed.~~~~

~~94-010.03A2 The Department will notify the licensee/certificate holder in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.~~

Statute 38-144(1)

~~94-010.04 When any licensee/certificate holder fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.~~

Statute 38-144(2)

~~94-010.05 Failure to meet the continuing competency requirement for renewal within 30~~

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

Statute 38-144(3)

~~94-010.06~~ When the licensee/certificate holder has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 94-010.04 and 94-010.05 will not apply.

Repeats Statute 38-179

~~94-010.07~~ The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

Statute 38-1,116

~~94-010.08~~ An individual who practices after expiration of his/her credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 94-020 or such other action as provided in the statutes and regulations governing the credential.

Statute 38-146

~~94-011~~ **AUDIT OF CONTINUING COMPETENCY:** The Board may select in a random manner a sample of the license and/or certificate renewal applications for audit of continuing education credits. Each licensee and/or certificate holder is responsible for maintaining in his/her personal files such certificates or records of credit from continuing education activities received from providers. A licensee and/or certificate holder selected for audit will be required to produce documentation of his/her attendance at those continuing education activities listed on his/her renewal application.

~~94-011.01~~ **Audit Requirements:**

- ~~1.~~ When selected for audit, the licensee and/or certificate holder must provide satisfactory documentation of attendance at or participation in continuing education activities attested to on the licensee's and/or certificate holder's renewal form. Satisfactory documentation includes, but not be limited to, certifications of attendance, certified attendance rosters, evidence of publication, or letters from sponsors of continuing education verifying attendance.
- ~~2.~~ The Board reserves the right to audit the continuing competency of any licensee and/or certificate holder by notifying the licensee and/or certificate holder and requesting the licensee and/or certificate holder to produce within 30 days of mailing documents verifying attendance at continuing education programs.
- ~~3.~~ Continuing education hours for which no documentation of attendance is produced will not be included in the calculation of the total of continuing education hours earned.
- ~~4.~~ Failure to comply with the audit will result in non-renewal of the license and/or certificate.

Statute 38-146

~~94-012 WAIVER OF CONTINUING COMPETENCY: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any two-year period or for the period of time since the license and/or certificate was last issued when a licensee and/or certificate holder submits documentation that circumstances beyond his/her control prevented him or her from completing such requirements.~~

~~94-012.02A Circumstances include that the licensee and/or certificate holder must:~~

Not required by statute

~~1. Hold a Nebraska license and/or certificate but is not engaged in mental health practice or an associated profession; or~~

Statute 38-146

~~2. Have been in the service of the regular armed forces of the United States during any part of the period since his/her certificate was issued or last renewed; or~~

Not required by statute

~~3. Be a legal resident of another state, territory, or the District of Columbia and have not practiced as a licensed mental health practitioner in the State of Nebraska since his/her license was issued or last renewed; or~~

~~a. If the waiver is requested for an associated certificate, the certificate holder must be a legal resident of another state, territory or the District of Columbia and have not practiced the associated profession in the State of Nebraska since his/her certificate was issued or last renewed; or~~

Not required by statute

~~4. Have been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours since his/her license and/or certificate was issued or last renewed; or~~

Statute 38-146

~~5. Have been first licensed and/or certified within twenty-four months immediately preceding the license and/or certification renewal date.~~

~~94-012.02B Application: Any licensee and/or certificate holder who seeks a waiver of continuing competency must apply to the Board for a recommendation to the Department to waive the continuing education. This application must be made on the renewal notice; and it must be received by the Division on or before September 1 of the year the license and/or certification is subject to renewal. Found in 172 NAC 10~~

~~1. The licensee and/or certificate holder must submit:~~

~~a. A request, on the renewal form, for waiver of the continuing education; and~~

~~b. A statement from a physician stating that the licensee and/or certificate holder was injured or ill, the duration of the illness or injury and the recovery period; and that the licensee and/or certificate holder was unable to attend continuing education activities during that period; or~~

~~c. Official documentation stating dates of service in the armed forces.~~

184 NAC 1

~~94-012.02C~~ The Department may, upon the recommendation of the Board, grant or deny an application for waiver of the continuing education requirements.

- ~~1.~~ When the Department determines to deny an application for waiver of the continuing education requirements, it will send to the applicant by certified mail to the last name and address of record in the Department, a notice setting forth the reasons for the denial determination.
 - ~~a.~~ The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with 184 NAC 1, Rules of Practice and Procedure for the Department.
 - ~~b.~~ The Department will issue at the conclusion of the appeal pursuant to 184 NAC 1 a final order setting forth the results of the appeal.
- ~~2.~~ When the Department determines to grant a waiver of the continuing education, the applicant will be notified within 30 days of receipt of the application.

Statute 38-142

~~94-013~~ LICENSE AND/OR CERTIFICATION REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department may revoke a credential when the credential holder fails to meet the renewal requirements.

~~94-013.01~~ Revocation for Nonpayment of Renewal Fee or Late fee, or Failure to Submit Documentation of Continuing Competency within Thirty Days of Expiration of the Credential

~~94-013.01A~~ When a credential holder fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

~~94-013.01A1~~ A post revocation notice will be sent which will specify that:

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

~~94-013.02~~ Revocation for Failure to Meet Continuing Competency Requirements

~~94-013.02A~~ When a credential holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

~~94-013.02A1~~ The revocation notice for failure to meet continuing competency requirements specifies that:

- ~~1.~~ The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective

- dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive or lapsed status;
 3. The credential has been revoked for failure to meet continuing competency requirements within thirty days after expiration of the credential and that the revocation will become final unless a request for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
 4. The credential holder has a right to request reinstatement of the credential after revocation.

94-014 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSEES AND/OR CERTIFICATE HOLDERS Entire section moved to section 012 of the proposed regulations as modified

94-014.01 ACCEPTABLE CONTINUING EDUCATION: The Board of Mental Health Practice does not pre-approve offerings, but may accept as continuing education for licensure and certification renewal learning experiences as set out in 172 NAC 94-014.02, provided they are planned and conducted for mental health practitioners, marriage and family therapists, professional counselors, or social workers, and that they are related to mental health practice. Continuing education for individuals who hold a social work certificate, but are not licensed as a mental health practitioner, must relate to the practice of social work.

94-014.02 General Requirements: On or before September 1 of each even numbered year, each licensed mental health practitioner, certified master social worker, certified social worker, certified professional counselor, and certified marriage and family therapist who is in active practice in the State of Nebraska must:

1. Complete 32 hours of approved continuing education during the proceeding 24 month period. Additional hours earned during this period which are above and beyond the required 32 hours can not be utilized for subsequent renewals;
 - a. An individual who holds a mental health practice license and an associated certificate(s) is not required to earn hours for each additional certificate s/he holds;
 - b. **Professional Counseling:** A person who holds an associated certificate in professional counseling is allowed to count any continuing education hours earned for the renewal of the professional counselor certification as hours approved to renew the mental health practitioner license;
 - c. **Social Work:** A person who holds an associated certificate in social work is allowed to count any continuing education hours earned for the renewal of the social worker certification as hours approved to renew the mental health practitioner license;
 - d. **Marriage and Family Therapy:** A person who holds an associated certificate in marriage and family therapy is allowed to count any continuing education hours earned for the renewal of the marriage and family therapist certification as hours approved to renew the mental health practitioner license;

2. Two of the 32 hours must relate to mental health practice ethics;
3. Be responsible for:
 - a. Assuring the continuing education program meets the appropriate subject matter as follows:
 - (1) Mental Health - Approved Continuing Education: Programs acceptable for continuing education credit for mental health practice must clearly relate to maintaining skills necessary for the safe and competent practice of mental health and are described as follows:
 - (a) College Courses from an approved graduate program;
 - (b) Multi-disciplinary Programs relevant to the individual's practice setting;
 - (c) Educational/Training Videos;
 - (d) Practicums from an approved graduate program;
 - (e) Publications/Articles written by a licensee and/or certificate holder that enhance the maintenance of skills. Such publications/articles written by a licensee and/or certificate holder must be published in a refereed professional journal, or be a chapter of a book, or an entire book;
 - (f) Home Study Programs; and
 - (g) Dissertations from an approved graduate program;
 - (2) Marriage And Family Therapy - Approved Continuing Education: In addition to the programs for mental health practice, subject matter acceptable for continuing education credit in marriage and family therapy must clearly relate to maintaining skills necessary for the safe and competent practice of marriage and family therapy and is described, but not limited to, the following:
 - (a) College courses from an approved graduate program which include courses:
 - [1] Marriage and Family Studies;
 - [2] Marriage and Family Therapy;
 - [3] Human Development;
 - [4] Professional Studies;
 - [5] Research;
 - [6] Workshops, Seminars, or Conferences;
 - [7] Home Study Programs;
 - [8] Publications; and must appear in a professional journal;or
 - [9] Dissertations from an approved graduate program;
 - (3) Professional Counseling - Approved Continuing Education: In addition to the programs for mental health practice, subject matter acceptable for continuing education credit for professional counseling must clearly relate to maintaining skills necessary for the safe and competent practice of professional counseling and is described, but not limited to, the following:
 - (a) College Courses from an approved graduate program which include course in:
 - [1] Counseling Theory;

- ~~[2] Human Growth and Development;~~
- ~~[3] Social and Cultural Foundations;~~
- ~~[4] The Helping Relationship;~~
- ~~[5] Group Dynamics, Processing and Counseling;~~
- ~~[6] Lifestyle and Career Development;~~
- ~~[7] Appraisal of Individuals;~~
- ~~[8] Research and Evaluation; or~~
- ~~[9] Professional Orientation.~~

- ~~(b) Workshops, Seminars, or Conferences;~~
- ~~(c) Home Study Programs;~~
- ~~(d) Publications must appear in a professional journal; or~~
- ~~(e) Dissertations from an approved graduate program;~~

~~(4) Non-Acceptable Professional Counseling Continuing Education: Examples of nonacceptable subject matter for continuing education credit for professional counseling includes, but is not limited to the following:~~

- ~~(a) Association business meeting or delegate report;~~
- ~~(b) Leadership training provided through associations; and~~
- ~~(c) Business technology, techniques, and management.~~

~~(5) Social Work – Approved Continuing Education: In addition to the programs for mental health practice, subject matter acceptable for continuing education credit in social work must relate to maintaining skills necessary for the safe and competent practice of social work and is described as follows:~~

- ~~(a) College Courses from an approved under-graduate or graduate program;~~
- ~~(b) Micro/Macro social work practice and research;~~
- ~~(c) Multi-disciplinary Programs relevant to the individual's practice setting;~~
- ~~(d) Educational/Training Videos;~~
- ~~(e) Practicums from an approved under-graduate or graduate program;~~
- ~~(f) Publications/Articles written by a certificate holder that enhance the maintenance of skills and must be published in a refereed professional journal, or be a chapter of a book or an entire book;~~
- ~~(g) Home Study Programs; and.~~
- ~~(e) Dissertations from an approved under-graduate or graduate program.~~

~~94-014.03 Presenters who are licensed must maintain documentation of presentation of a continuing education program . A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.~~

~~94-014.04 Department Responsibility: The Department will not renew or reinstate the license and/or certification of any person who has not complied with the continuing education requirements of these regulations.~~

~~94-014.05 Acceptable Continuing Education Program Criteria: A continuing education program must meet the following criteria to be acceptable for continuing education credit:~~

- ~~1. The program must be at least 60 minutes in duration;~~
- ~~2. The program's objectives must relate to the practice of mental health and/or the associated certificate;~~
- ~~3. Presenters of programs must be qualified by education, experience or training;~~
- ~~4. Programs must be open to all mental health practitioners licensed by Nebraska who meet the training and educational pre-requisites for the program. Employment can not be considered as a pre-requisite;~~
 - ~~a. Social Work: Programs relating to an associated certificate in social work must be open to all social workers certified by Nebraska who meet the training and education pre-requisites for the program. Employment can not be considered as a pre-requisite;~~
 - ~~b. Professional Counseling: Programs relating to an associated certificate in professional counseling must be open to all professional counselors certified by Nebraska who meet the training and education pre-requisites for the program. Employment can not be considered as a pre-requisite; and~~
 - ~~c. Marriage and Family Therapy: Programs relating to an associated certificate in marriage and family therapy must be open to all marriage and family therapists certified by Nebraska who meet the training and education pre-requisites for the program. Employment can not be considered as a pre-requisite.~~
- ~~5. Program provider must have a process for monitoring and verifying attendance.~~

~~94-014.06 Home Study Program Criteria: A home study program must meet the following criteria to be acceptable for continuing education:~~

- ~~1. The home study program's objectives must relate to the enhancement of practice/skills of Mental Health, Social Work, Professional Counseling, or Marriage and Family Therapy. The home study program must be relevant to one or more areas as specified in 172 NAC 94-014.02.~~
- ~~2. The provider must be qualified by education, experience, or training; and~~
- ~~3. The provider must employ a system to monitor knowledge obtained by the licensee and/or certificate holder completing a home study program, such as, but not limited to a final examination or program evaluation.~~

~~94-014.08 Publications/Articles Criteria: A publication/article must meet the following criteria to be accepted for continuing education credit:~~

- ~~1. The publication/article objectives must relate to the enhancement of skills/practice of Mental Health, Social Work, Professional Counseling, or Marriage and Family Therapy. The publication must be relevant to one or more areas as specified in 172 NAC 94-014.02; and~~
- ~~2. The publication/article must be already published or accepted for publishing in a refereed and/or reviewed professional journal, as a chapter of a book, or as a book.~~

~~94-014.09 Educational/Training Video Program Criteria: An educational/training video program must meet the following criteria to be acceptable for continuing education credit:~~

- ~~1. The educational/training video program's objectives must relate to the enhancement of practice/skills of Mental Health, Social Work, Professional Counseling or Marriage and Family Therapy and must relate to 172 NAC 94-014.02.~~
- ~~2. The provider must be qualified by education, experience or training; and~~
- ~~3. The provider must employ a formal system to monitor and verify the use of the educational/training video.~~

~~94-014.10 Dissertation Criteria: A dissertation must meet the following criteria to be acceptable for continuing education credit. The dissertations objectives must relate directly to the theory or clinical application of theory relating to Mental Health, Social Work, Professional Counseling, or Marriage and Family Therapy as specified in 172 NAC 94-014.02 and~~

~~94-014.11 Practicum Criteria: A practicum must meet the criteria specified in 172 NAC 94-014.02 to be acceptable for continuing education credit.~~

~~94-014.12 National, Regional, and International Sponsored Programs: Programs sponsored by national, regional, or international mental health practice associations or associations directly related to enhancing mental health practice will be acceptable for continuing education credit. Sessions must be professionally oriented and approved by that association for continuing education. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal.~~

- ~~1. Programs sponsored by national, regional, or international social work associations or associations directly related to enhancing social work practice need not apply for approval. Sessions must be professionally oriented and approved by that association for continuing education. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal.~~
- ~~2. Programs sponsored by national, regional, or international professional counseling associations or associations directly related to enhancing professional counseling practice need not apply for approval. Sessions must be professionally oriented and approved by that association for continuing education. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal.~~
- ~~3. Programs sponsored by national, regional, or international marriage and family therapy associations or associations directly related to enhancing marriage and family therapy practice need not apply for approval. Sessions must be professionally oriented and approved by that association for continuing education. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal.~~

~~94-014.13 Continuing Education Certificate of Completion: Each provider of a continuing education program must furnish to each person completing the program a certificate of completion.~~

1. Each certificate must include the following:
 - a. Program title;
 - b. Name of the participant;
 - c. Provider's name;
 - d. City, State and Location of the program;
 - e. Date(s) of the program; and
 - f. Number of hours received by the licensee and/or certificate holder.

2. Presentation of the certificate will constitute evidence that the person complied with all requirements of the program and did complete the program.

~~94-014.14 Program Monitoring: The provider must employ a reliable system to monitor the physical presence of participants throughout the entire program. If a participant chooses not to participate in the entire program, the certificate of attendance must reflect the participant's actual hours of attendance.~~

~~94-014.15 Denial of Continuing Education Programs: At the time of renewal the Board will deny a continuing education program on any of the following grounds:~~

1. Program content or the presenter's qualifications fail to meet requirements specified in 172 NAC 94-014.05;
2. The program's objectives do not relate to the practice of mental health, or to the associated certificate for which the continuing education is being requested;
3. Failure to meet the requirements of 172 NAC 94-014.05; and
4. Failure to reflect participant's actual hours of attendance upon the certificate issued.

~~94-014.15A Should the Board determine to deny a continuing education program, the Division will send to the applicant by either certified or registered mail to the last address of record in the Department a notice setting forth the reasons for the determination. The denial will become final 30 calendar days after the mailing of the notice unless the applicant within the 30 day period, gives written notice to the Department of a desire for hearing. The hearing will be conducted in accordance with Chapter 84, Article 9 and 184 NAC 1 of the Rules of Practice and Procedure for the Department. The applicant may re-submit the program for re-evaluation.~~

Statute 38-178 for entire section 94-015

94-015 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF OR DISCIPLINE A LICENSEE AND/OR CERTIFICATE HOLDER

~~94-015.01 The Department will deny an application for a license and/or certificate when the applicant fails to meet the requirements for license and/or certification of any of the provisions of 172 NAC 94-003 through 94-0046, or is found to be in violation of any of the provisions of 172 NAC 94-015.~~

~~94-015.02 The Department will refuse renewal of a license and/or certificate if the licensee and/or certificate holder fails to meet the requirements specified in 172 NAC 94-010 or 94-0011, or in 94-0012.~~

~~94-015.03~~ The Department may deny, refuse renewal of, limit, suspend, or revoke a license and/or certificate for any of the following grounds and other grounds found in Neb. Rev. Stat. § 71-147:

- ~~1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license or certificate.~~
- ~~2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state.~~
- ~~3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to section 71-172.01.~~
- ~~4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's and/or certificate holder's fitness or capacity to practice the profession.~~
- ~~5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or with gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession.~~
- ~~6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.~~
- ~~7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.~~
- ~~8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so.~~
- ~~9. Action taken by another jurisdiction to deny, refuse renewal, limit, suspend or revoke a license and/or certificate to provide mental health services or a license/certificate to practice social work, providing such action against the individual was based upon offenses specified in 172 NAC 94-012 in proceedings comparable to those provided in Neb. Rev. Stat. § 71-155.~~
- ~~10. Unprofessional conduct as defined in 172 NAC 94-016.~~
- ~~11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's and/or certificate holder's professional excellence or abilities, in advertisements.~~
- ~~12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act.~~
- ~~13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes.~~
- ~~14. Willful or repeated violations of the Uniform Licensing Law or these rules and regulations.~~
- ~~15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee and/or certificate holder is not licensed or certified to practice.~~
- ~~16. Failure to file a report required by Neb. Rev. Stat. § 71-168.~~

- ~~17. Practicing the professions of mental health, social work, professional counseling, or marriage and family therapy while his/her license or certificate is suspended or in contravention of any limitation placed upon his/her license or certificate.~~
 - ~~18. When the applicant is found to be not qualified to practice the particular profession or occupation for which s/he is applying, licensed, or certified because of physical or mental illness or physical or mental deterioration or disability.~~
 - ~~19. Refusal of an applicant for a license and/or certificate or of a licensee and/or certificate holder to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed or certified.~~
- Statute 38-2123(3)**
20. Failure to disclose to clients that s/he holds a provisional license, is practicing mental health under supervision, and the name of supervisor.

94-016 UNPROFESSIONAL CONDUCT: For purposes of Neb. Rev. Stat. § 71-147, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest. In addition to the acts specified in Neb. Rev. Stat. § 71-148 and pursuant to § 71-147, actions or practices which fail to conform to accepted standards for mental health, social work, professional counseling, or marriage and family therapy, and which could jeopardize the health, safety and welfare of the client constitute unprofessional conduct by a licensed mental health practitioner, certified master social worker, certified social worker, certified professional counselor, or certified marriage and family therapist, and include but are not limited to the following: **Moved to section 013 of the proposed regulations as modified**

Sections 94-016.01 through 94-016.05 moved to section 013 of the proposed regulations as modified

94-016.01 Competence: A mental health practitioner, certified master social worker, certified social worker, certified professional counselor, or certified marriage and family therapist must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of mental health services, social work, professional counseling, or marriage and family therapy includes but is not limited to:

1. Committing any act which endangers patient/client safety or welfare; or
2. Failure to adhere to or departure from the standards of acceptable and prevailing practice in mental health practice, social work, professional counseling, or marriage and family therapy.

94-016.02 Confidentiality: A licensee/certificate holder must hold in confidence information obtained from a patient/client, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law.

~~94-016.03 Professional Relationships: A licensee/certificate holder must safeguard the welfare of patients/clients and maintain professional relationships with patients/clients. Commission of any of the following acts or behavior constitutes unprofessional conduct.~~

- ~~1. Exploiting another person for one's own advantage;~~
- ~~2. Performing or agreeing to perform mental health services, social work, professional counseling, or marriage and family therapy that have been requested when such services are known to be contraindicated or unjustified;~~
- ~~3. Performing or agreeing to perform procedures that have been requested when such procedures are known to be outside of the mental health practice, social work, professional counseling, or marriage and family therapy scope of practice;~~
- ~~4. Verbally or physically abusing patients/clients;~~
- ~~5. Falsification or unauthorized destruction of patients/clients records;~~
- ~~6. Attempting to provide diagnostic or treatment information to patient's/client(s) that is beyond the licensee/certificate holders level of education, training and expertise;~~
- ~~7. Delegating to other personnel those patient/client related services for which the clinical skills and expertise of a licensee/certificate holder are required;~~
- ~~8. Encouraging or promoting the practice of mental health services, social work, professional counseling or marriage and family therapy by untrained or unqualified persons; or~~
- ~~9. Failure to safeguard the patient's/client's dignity and right to privacy.~~

~~94-016.04 Sexual Harassment: A licensee/certificate holder must not under any circumstances engage in sexual harassment of patients/clients.~~

- ~~1. Sexual harassment includes 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 care to a patient/client;~~
 - ~~b. Creating an intimidating, hostile, or offensive environment for the patient/client; or~~
 - ~~c. Interfering with a patient's/client's ability to recover.~~~~

~~94-016.05 Dual Relationship: Licensees and/or certificate holders must make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, licensees and/or certificate holders should take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Examples of such dual relationships include, but are not limited to, business or close personal relationships with a client. Sexual intimacy with a client 6 months preceding the provision of professional services is prohibited. Sexual intimacy with a former client for 2 years following the termination of therapy is prohibited.~~

- ~~1. Sexual Intimacy means any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. Sexual intimacy may or may not include sexual contact.
 - ~~a. Sexual contact is defined as sexual intercourse, either genital or anal, cunnilingus, fellatio, sodomy or the handling of breasts, genital areas,~~~~

~~buttocks, or thighs whether clothed or unclothed, initiated or consented to by licensee.~~

~~In the therapeutic relationship, licensees are aware of the intimacy and responsibilities inherent in the therapeutic relationship and must avoid actions that seek to meet their personal needs at the expense of clients. Licensees are aware of their influential positions with respect to clients, and they must avoid exploiting the trust and dependency of such persons. Licensees, therefore, must make every effort to avoid conditions and multiple relationships with clients that could impair professional judgement or increase the risk of exploitation.~~

Statute 38-179 (entire section 94-016.06, #1-20)

94-016.06 Other:

- ~~1. Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee and/or certificate holder.~~
- ~~2. Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured.~~
- ~~3. Division of fees or agreeing to split or divide the share fees received for professional services with any person for bringing or referring a client.~~
- ~~4. Obtaining any fee for professional services by fraud, deceit or misrepresentation including, but not limited to, falsification of third party claim documents.~~
- ~~5. Cheating on or attempting to subvert the licensure and/or certification examination.~~
- ~~6. Assisting in the care or treatment of a client without the consent of such client or his/her legal representative.~~
- ~~7. The use of any letters, words or terms, either as a prefix, affix, or suffix on stationery, in advertisements or otherwise, indicating that such person is entitled to practice a system or mode of healing for which s/he is not licensed and/or certified.~~
- ~~8. Willful betrayal of a professional secret.~~
- ~~9. Making use of any advertising statements of a character tending to deceive or mislead the public.~~
- ~~10. Advertising professional superiority or the performance of professional services in a superior manner.~~
- ~~11. The violation of an assurance of compliance entered into under Neb. Rev. Stat. § 71-171.02.~~
- ~~12. The commission an any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of mental health, social work, professional counseling, or marriage and family therapy.~~
- ~~13. The failure to keep and maintain adequate records of treatment of service.~~
- ~~14. The use of undue influence to entice clients to commit actions that are emotionally or financially detrimental.~~
- ~~15. The use of any sexual conduct which clearly demonstrates an intent to entice clients to commit actions that may cause present or future emotional or financial harm to the client.~~
- ~~16. Being unable to competently perform mental health, social work, professional counseling, or marriage and family therapy functions because of a psychological impairment.~~

- ~~17. Use of alcohol or other drugs to the point that there is interference with the performance of services provided by the professional.~~
- ~~18. Falsifying or not completing clients' records.~~
- ~~19. Intentional failure to report through the proper channels the incompetent, unethical or illegal practice of any person who is representing himself/herself as a licensed mental health practitioner, or as a certified social worker, certified master social worker, certified professional counselor, or certified marriage and family therapist; unless the licensee/certificate holder acquired the knowledge in a professional relationship otherwise protected by confidentiality.~~
- ~~20. Nothing in 172 NAC 94-015 or 94-016 excludes determination of additional conduct that is unprofessional by adjudication in individual contested cases.~~

Statutes 38-147, 38-148, 38-149; in addition, lapsed status is no longer an option for a licensee to request his/her licensed be placed on

94-017 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

94-017.01 Eligibility ~~172 NAC 10~~

~~94-017.01A An individual whose credential has been previously:~~

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

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

~~94-017.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.~~

~~94-017.01C An individual who practices prior to re-credentialing is subject to:~~

- ~~1. Assessment of an Administrative Penalty pursuant to 172 NAC 94-020, and~~
- ~~2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.~~

~~94-017.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 94-003, 94-004, and/or 94-005.~~

~~94-017.02A~~ If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 94-020;~~
- ~~2. Initiate disciplinary action against the lapsed credential;~~
- ~~3. Deny the request to restore the credential from lapsed to active status; or~~
- ~~4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~94-017.02B~~ If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

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

~~94-017.02C~~ The Department will act within 150 days on all completed applications.

~~94-017.02D~~ The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 94-017.02A and 94-017.02B are final.

~~94-017.03~~ Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential found from inactive to active status upon proof to the Department that they meet the following requirements:

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

~~94-017.04~~ Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

- ~~1. A written application which contains the following information about the applicant:
 - ~~a. Name;~~~~

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

~~94-017.04A If an applicant has practiced while his/her credential was inactive, the Department may:~~

- 1. ~~Assess an Administrative Penalty pursuant to 172 NAC 94-020;~~
- 2. ~~Initiate disciplinary action against the credential;~~
- 3. ~~Deny the request to move the credential from inactive to active status; or~~
- 4. ~~Move the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~94-017.04B~~ If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

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

~~94-017.04C~~ In either event pursuant to 172 NAC 94-017.04A or 94-017.04B, a notice and the opportunity for hearing will be given to the applicant.

~~94-017.04D~~ The Department will act within 150 days on all completed applications.

Statute 38-147 addresses reinstatement; the statutes no longer set out reinstatement based on 1 year following revocation for failure to renew.

~~94-017.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements:~~ An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

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

~~94-017.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements:~~ To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

- ~~1. A written application which contains the following information about the applicant:
 - ~~a. Name;~~
 - ~~b. Address;~~
 - ~~c. Social security number; and~~
 - ~~d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - ~~e. A statement describing all:
 - ~~(1) Felony or misdemeanor convictions during the time period since the credential was active;
 - ~~(a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - ~~[1] Official Court Record, which includes charges and disposition;~~
 - ~~[2] Arrest records;~~~~~~~~~~

- ~~[3]— A letter from the applicant explaining the nature of the conviction;~~
- ~~[4]— All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
- ~~[5]— A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.~~
- ~~(2) — Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;~~
 - ~~(a) — If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
 - ~~(3) — Disciplinary charges pending against any professional credential held by the applicant.~~
- ~~f. — Verification that the continuing competency requirements for renewal have been met;~~
- ~~2. — The renewal fee, the late fee of \$35 and any other applicable fees; and~~
- ~~3. — Attestation by the applicant:~~
 - ~~a. — That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - ~~b. — To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.~~
 - ~~(1) — If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 94-020 in which case a notice and opportunity for hearing will be sent to the applicant.~~
 - ~~(2) — If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 94-017.06B below.~~

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

~~94-017.06A~~ The Board's recommendation to the Department may be to:

- ~~1. Reinstatement;~~
- ~~2. Reinstatement with terms, conditions or restrictions; or~~
- ~~3. Deny reinstatement.~~

~~94-017.06B~~ Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

- ~~1. Reinstatement of the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 94-020 if warranted;~~
- ~~2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - ~~a. Reinstatement of the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 94-020 if warranted; or~~
 - ~~b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.~~~~

Statute 38-147 addresses reinstatement; the statutes no longer set out reinstatement based on more than 1 year following revocation for failure to renew.

~~**94-017.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements:** An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:~~

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

Statute 38-147 addresses reinstatement; the statutes no longer set out reinstatement based on more than 1 year following revocation for failure to renew.

~~**94-017.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements:** An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:~~

1. ~~A petition for reinstatement:~~
 - a. ~~Stating the reason the petitioner believes his/her credential should be reinstated;~~
 - b. ~~Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.~~
 - c. ~~Containing the following information about the petitioner:~~
 - (1) ~~Name;~~
 - (2) ~~Address;~~
 - (3) ~~Social security number; and~~
 - (4) ~~If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - (5) ~~A statement describing all:~~
 - (a) ~~Felony or misdemeanor convictions during the time period since the credential was active;~~
 - [1] ~~If the petitioner has been convicted of a felony or misdemeanor, provide copies of:~~
 - [a] ~~Official Court Record, which includes charges and disposition;~~
 - [b] ~~Arrest records;~~
 - [c] ~~A letter from the petitioner explaining the nature of the conviction;~~
 - [d] ~~All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - [e] ~~A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.~~
 - (b) ~~Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;~~
 - [1] ~~If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
 - (c) ~~Disciplinary charges pending against any professional credential held by the petitioner.~~
 - (6) ~~Verification that the continuing competency requirements for renewal have been met.~~
 2. ~~The renewal fee, the late fee of \$75 and any other applicable fees; and~~
 3. ~~Attestation by the petitioner:~~
 - a. ~~That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
 - b. ~~To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~

- ~~(1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 94-020 in which case a notice and opportunity for hearing will be sent to the petitioner.~~
- ~~(2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 94-017.08E.~~

~~94-017.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.~~

~~94-017.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.~~

~~94-017.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~

~~94-017.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.~~

~~94-017.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.~~

~~94-017.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.~~

~~94-017.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.~~

~~94-017.08F1 If the Board recommends reinstatement of the credential, the Department may:~~

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

~~recommendation and either:~~

- ~~a. Deny reinstatement of the credential, or~~
- ~~b. Grant reinstatement with terms, conditions, or restrictions.~~

~~94-017.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~94-017.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:~~

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

~~94-017.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.~~

~~94-017.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

Statute 38-148 no longer requires the applicant to petition the Board to reinstate.

~~94-017.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:~~

- ~~1. Petition the Board for reinstatement;~~
 - ~~a. The petition for reinstatement must be accompanied by~~
 - ~~(1) verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and~~
 - ~~(2) verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.~~
- ~~2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;~~
- ~~3. If the credential was revoked or suspended, attest:~~
 - ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~

- b. ~~To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~

Statute 38-148, 38-149, and 38-150

94-017.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. ~~Stating the reason the petitioner believes his/her credential should be reinstated;~~
 - b. ~~Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.~~
 - c. ~~Containing the following information about the petitioner:~~
 - (1) ~~Name;~~
 - (2) ~~Address;~~
 - (3) ~~Social security number; and~~
 - (4) ~~If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;~~
 - (5) ~~A statement describing all:~~
 - (a) ~~Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;~~
 - [1] ~~If the petitioner has been convicted of a felony or misdemeanor, provide copies of:~~
 - [a] ~~Official Court Record, which includes charges and disposition;~~
 - [b] ~~Arrest records;~~
 - [c] ~~A letter from the petitioner explaining the nature of the conviction;~~
 - [d] ~~All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
 - [e] ~~A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.~~
 - (b) ~~Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;~~
 - [1] ~~If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
 - (c) ~~Disciplinary charges pending against any professional~~

- credential held by the petitioner;
- ~~(6) Any continuing competency activities.~~
- ~~2. The reinstatement fee of \$75; and~~
- ~~3. Attestation by the petitioner, if the credential was revoked or suspended:~~
- ~~a. That s/he has not practiced in Nebraska since s/he last held an active credential; or~~
- ~~b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.~~
- ~~(1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 94-020 in which case a separate notice and opportunity for hearing will be sent to the petitioner.~~
- ~~(2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 94-017.10F.~~

~~94-017.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:~~

- ~~1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.~~
- ~~2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;~~
- ~~3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or~~
- ~~4. Require the petitioner to complete additional education.~~

~~94-017.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.~~

~~94-017.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.~~

~~94-017.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~

~~94-017.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.~~

~~94-017.10E1~~ The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

~~94-017.10E2~~ If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of such petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

~~94-017.10F~~ If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

~~94-017.10G~~ The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

~~94-017.10G1~~ If the Board recommends reinstatement of the credential:

- ~~1.~~ The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
- ~~2.~~ The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - ~~a.~~ The application must include:
 - ~~(1)~~ Name of the petitioner; and
 - ~~(2)~~ Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
- ~~3.~~ Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - ~~a.~~ The application;
 - ~~b.~~ The written recommendation of the Board, including any finding of fact or order of the Board;
 - ~~c.~~ The petition submitted to the Board;
 - ~~d.~~ The record of hearing, if any;
 - ~~e.~~ Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.

4. ~~The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.~~
 - a. ~~When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;~~
 - b. ~~If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~94-017.10G2~~ If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. ~~The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.~~
2. ~~The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.~~
 - a. ~~The application must include:
 - (1) ~~Name of the petitioner; and~~
 - (2) ~~Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.~~~~
3. ~~Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:~~
 - a. ~~The application;~~
 - b. ~~The written recommendation of the Board, including any finding of fact or order of the Board;~~
 - c. ~~The petition submitted to the Board;~~
 - d. ~~The record of hearing, if any;~~
 - e. ~~Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.~~

4. ~~The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.~~
- a. ~~When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;~~
- b. ~~If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

~~94-017.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.~~

Statute 38-148 and 38-149

~~94-017.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time~~

~~94-017.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.~~

~~94-017.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:~~

1. ~~A written application which contains the following information about the applicant:~~
- a. ~~Name;~~
- b. ~~Address;~~
- c. ~~Social security number; and~~
- d. ~~If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~
- e. ~~A statement describing all:~~
- (1) ~~Felony or misdemeanor convictions during the time period since the credential was active;~~
- (a) ~~If the applicant has been convicted of a felony or misdemeanor, provide copies of:~~
- [1] ~~Official Court Record, which includes charges~~

- and disposition;
- ~~[2] Arrest records;~~
- ~~[3] A letter from the applicant explaining the nature of the conviction;~~
- ~~[4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and~~
- ~~[5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.~~
- ~~(2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;~~
- ~~(a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and~~
- ~~(3) Disciplinary charges pending against any professional credential held by the applicant.~~
- ~~f. Any continuing competency activities.~~
- ~~g. An attestation by the applicant:~~
 - ~~(1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or~~
 - ~~(2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.~~

~~94-017.11A2~~ If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 94-020;~~
- ~~2. Initiate disciplinary action against the credential;~~
- ~~3. Deny the request to restore the credential; or~~
- ~~4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.~~

~~94-017.11A3~~ If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

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

~~94-017.11A4~~ In either event pursuant to 172 NAC 94-017.11A2 or 94-017.11A3, a notice and the opportunity for hearing will be given to the applicant.

~~94-017.11A5~~ The Department will act within 150 days on all completed applications.

~~94-017.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time~~ Found in 172 NAC 10

~~94-017.12A~~ Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.

~~94-017.12B~~ If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 94-020.

~~94-017.13~~ Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

Statute 38-2136

~~94-018~~ DISCLOSURE OF CONFIDENTIAL INFORMATION: A person licensed or certified pursuant to these regulations must not disclose any information s/he may have acquired from any person consulting him/her in his/her professional capacity except:

- ~~1. With the written consent of such person;~~
- ~~2. In the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition;~~
- ~~3. When more than one person in a family received therapy conjointly, each such family member who is legally competent to execute a waiver must agree to the waiver referred to in this section. Without such a waiver from each family member legally competent to execute a waiver, a practitioner must not disclose information received from any family member;~~
- ~~4. As such privilege is limited by the laws of the State of Nebraska or as the board may determine by rule and regulation;~~
- ~~5. When the person waives the privilege by bringing charges against the licensee/certificate holder;~~
- ~~6. When there is a duty to warn under the limited circumstances set forth in 172 NAC 94-018;~~
- ~~7. There is no monetary liability on the part of, and no cause of action will arise against, any person who is licensed or certified pursuant to 172 NAC 94-003 through 94-006 for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the licensee and/or certificate holder a serious threat of physical violence against himself, herself, or a reasonably identifiable victim or victims;~~
- ~~8. The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in 172 NAC 94-018. The duty is discharged by the licensee and/or certificate holder if reasonable~~

~~efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.~~

- ~~9. No monetary liability and no cause of action will arise under 172 NAC 94-018 against a licensee or certificate holder for information disclosed to third parties in an effort to discharge a duty arising under 172 NAC 94-018.~~

94-019 SCHEDULE OF FEES: The following fees have been set by the Department:
All fees found in 172 NAC 2

~~94-019.01 Initial and Reciprocity License/Certificate Fee:~~ By an applicant for a license/certificate the following fees, the Licensee Assistance Program fee of \$2, and The actual cost of the national standardized examination:

- | | |
|--------------------------------------------------------|-----------------|
| 1. Mental Health Practice License: | \$50 |
| 2. Marriage and Family Therapy Certificate: | \$25 |
| 3. Professional Counseling Certificate: | \$25 |
| 4. Master Social Work Certificate: | \$25 |
| 5. Social Work Certificate: | \$25 |

~~94-019.02 Provisional License/Certificate Fee:~~ By an applicant for a provisional license/certificate, the following fees:

- | | |
|-----------------------------------------------------------|-----------------|
| 1. Provisional Mental Health Practice License: | \$25 |
| 2. Provisional Master Social Work Certificate: | \$25 |

~~94-019.03 Pro-rated Initial License/Certificate Fee:~~ For issuance of a credential that will expire within 180 days after its initial issuance date, the fee of \$25 and the Licensee Assistance Program fee of \$1(this does not apply to provisional licensure/certification).

~~94-019.04 License/Certificate Renewal Fee:~~ By an applicant for renewal on a biennial basis of a credential the following fees and the Licensee Assistance Program fee of \$2:

- | | |
|--------------------------------------------------------|-----------------|
| 1. Mental Health Practice License: | \$50 |
| 2. Marriage and Family Therapy Certificate: | \$25 |
| 3. Professional Counseling Certificate: | \$25 |
| 4. Master Social Work Certificate: | \$25 |
| 5. Social Work Certificate: | \$25 |

~~94-019.05 Inactive License/Certificate Status Fee:~~ By an applicant to have his/her credential placed on inactive status, the fee of \$25.

~~94-019.06 Renewal Late Fee:~~ By an applicant for renewal on a biennial basis of a credential, who fails to pay the renewal fee on or before the expiration date of his/her credential, the fee of \$25 as a late fee in addition to the renewal fee.

~~94-019.07 Certification of License/Certificate Fee:~~ For issuance of a certification of a credential, the fee of \$25. The certification includes information regarding:

- ~~1. The basis on which a credential was issued;~~

- ~~2. The date of issuance;~~
- ~~3. Whether disciplinary action has been taken against the credential; and~~
- ~~4. The current status of the credential.~~

~~94-019.08 Verification of License/Certificate Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.~~

~~94-019.09 Duplicate License/Certificate Fee: For a duplicate of an original license/certificate document or reissued license or certificate, the fee of \$10.~~

~~94-019.10 Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the credentialing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.~~

~~94-019.11 Reinstatement Late Fee: For reinstatement of a credential for failure to meet renewal requirements:~~

- ~~1. Within one year, the fee of \$35 in addition to the renewal fee.~~
- ~~2. After one year of revocation, the fee of \$75 in addition to the renewal fee.~~

~~94-019.12 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.~~

Statute 38-1,115 and 38-1,116

~~94-020 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a license for the purpose of this regulation means practice:~~

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

Statute 38-1,115

~~94-020.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:~~

- ~~1. The person admits to engaging in practice;~~
- ~~2. Staffing records or other reports from the employer of the person indicate that the person was 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; or~~
- ~~6. 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.~~

Statute 38-1,116.

~~94-020.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:~~

- ~~1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.~~
- ~~2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.~~

Statute 84-901 to 84-920.

~~94-020.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.~~

THESE AMENDED RULES AND REGULATIONS:

~~**Replace:** Title 172 Chapter 94, Regulations Governing the Licensure of Mental Health Practitioners and the Certification of Marriage and Family Therapists, Professional Counselors, and Social Workers, effective October 26, 1996.~~

~~**Repeal:** Title 172 Chapter 93, Fee Regulations for the Licensure of Mental Health Practitioners and the Certifications as a Marriage and Family Therapist, Professional Counselor and Social Worker.~~

Approved by the Attorney General: _____ July 20, 2004 _____

Approved by the Governor: _____ July 23, 2004 _____

Filed with the Secretary of State: _____ July 23, 2004 _____

EFFECTIVE DATE: _____ July 28, 2004 _____

Effective Date
~~07/28/04~~

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN
SERVICES REGULATION AND LICENSURE

172 NAC 94

~~The forms referred to in the body of these regulations are available upon request.~~