

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

August 5, 2020
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 172, Chapter 128 of the Nebraska Administrative Code (NAC) – *Practice of Pharmacy*. The proposed changes: revise the appropriate documentation that will be accepted for licensure; allow for foreign trained pharmacists to obtain a license; update reciprocity requirements; add pharmacist intern and pharmacy technician registrations to the regulations; update continuing competency requirements; update identification requirements; include the supervision of pharmacist interns; update unprofessional conduct; removes all duplicative statutory language from the regulations and removes any repetitive regulatory language found in 172 NAC 10.

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.

Due to the current public health crisis, the agency will enforce any Directed Health Measure Order on the size of gatherings that is in effect at the time of the hearing. In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments.

Interested persons may provide verbal comments by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

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: Jesse Cushman |
| Chapter: 128 | Date prepared: 06/25/2020 |
| Subject: Practice of Pharmacy | Telephone: (402) 471-4915 |

Type of Fiscal Impact:

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

Provide an Estimated Cost & Description of Impact:

State Agency: **No Change**

Political Subdivision: **No Change**

Regulated Public: **There is no change in fees to the regulated public.**

If indeterminable, explain why:

2008

STATE OF NEBRASKA

Regulations Governing the Practice of

PHARMACY



N E B R A S K A

Department of Health and Human Services
Division of Public Health
Licensure Unit
Nebraska State Office Building
301 Centennial Mall South Third Floor
P.O. Box 94986
Lincoln, NE 68509-4986

(402) 471-2118

Effective Date: November 1, 2005

Pages 46-48 Effective Date: February 9, 2008

TITLE 172 — PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 128 — PRACTICE OF PHARMACY

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Copies of the attached Code of Ethics for Pharmacists are available at
<http://www.aphanet.org/pharmacare/ethics.html> — **NOTE:** This is same information that
was copied from the website on 07/27/2005, which was filed with the Secretary of State
on October 27, 2005.

EFFECTIVE DATE ~~NEBRASKA HEALTH AND HUMAN SERVICES~~
November 1, 2005 ~~REGULATION AND LICENSURE~~ 172 NAC 128

DRAFT NEBRASKA DEPARTMENT OF
06-26-2020 HEALTH AND HUMAN SERVICES 172 NAC 128

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 128 PRACTICE OF PHARMACY BY CREDENTIALLED PHARMACY PERSONNEL

~~128-001. SCOPE AND AUTHORITY.:~~ These regulations govern the credentialing of pharmacists, pharmacist interns, pharmacy technicians, and the practice of pharmacy under the Pharmacy Practice Act, Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 38-2801 to 38-28,107 and the Nebraska Drug Product Selection Act; pursuant to the Uniform Controlled Substances Act, Neb. Rev. Stat. §§ 28-1437 to 28-1439.01; 71-1,142 to 71-1,151; 71-2401 to 71-2405; and the Uniform Credentialing Act (UCA), Neb. Rev. Stat. §§ 38-101 to 38-1,142. ~~the Mail Service Pharmacy Licensure Act; the Nebraska Drug Product Selection Act; and the Uniform Licensing Law.~~

Any application required by 172 NAC 128 may be submitted on a form provided by the Department or in an alternate format.

~~128-002. DEFINITIONS. Definitions set out in the Pharmacy Practice Act, the Uniform Controlled Substances Act, the Uniform Credentialing Act, and 172 Nebraska Administrative Code (NAC) 10 apply to this chapter.:~~ In addition to the definitions found in Neb. Rev. Stat. §§ 28-401 and 71-1,142, the following definitions apply to 172 NAC 128:

~~Accredited or approved program~~ means a pharmacy program which maintains accreditation approved by the Accreditation Council for Pharmacy Education (ACPE) or other accrediting agencies and is approved by the Department upon recommendation of the Board.

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

~~Chart order~~ means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to Neb. Rev. Stat. § 28-412. Chart order does not include a prescription.

~~D.E.A.~~ means the Drug Enforcement Administration of the United States Department of Justice.

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

~~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.

EFFECTIVE DATE ~~NEBRASKA HEALTH AND HUMAN SERVICES~~
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~~NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 128.~~

~~Pharmacist means any person who is licensed by the State of Nebraska to practice pharmacy.~~

~~Pharmacist Intern means a person who meets the requirements of Neb. Rev. Stat. § 71-1,144 and these regulations.~~

~~Pharmacy internship means a period of training, in the practice of pharmacy, of the pharmacist intern under the direction of a pharmacist or experiential training in an accredited pharmacy program approved by the Board of Pharmacy as a requirement for licensure to practice pharmacy in the State of Nebraska.~~

~~Practice agreement means a document signed by a pharmacist and a medical practitioner, wherein the pharmacist agrees to implement and monitor a therapeutic plan based on a written protocol.~~

~~Prescription means an order for a drug or device issued by a practitioner for a specific patient, for emergency use, or for use in immunizations. Prescription does not include a chart order.~~

~~Reciprocity means an applicant for pharmacist licensure who has requested to transfer the pharmacist's license through National Association of Boards of Pharmacy (NABP) Transfer of Pharmaceutic Licensure Program.~~

~~Score Transfer means an applicant for pharmacist licensure who has requested to participate in the score transfer program offered by the National Association of Boards of Pharmacy (NABP).~~

~~Supervision of a pharmacist intern means the presence of and the responsible and immediate personal guidance and direction by a pharmacist.~~

~~Written protocol means a written template, agreed to by a pharmacist and a medical practitioner, working in concert, which directs how the pharmacist will implement and monitor a therapeutic plan.~~

~~128-003. PHARMACIST LICENSURE LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the statutory requirements, the requirements in 172 NAC 10, and the requirements in this chapter.~~

~~128-003.01 PHARMACIST LICENSURE. To obtain a pharmacist license aAn applicant must meet the requirements of Neb. Rev. Stat. § 38-2851 and this chapter. For licensure as a pharmacist on the basis of examination or score transfer must:~~

003.01(A) EDUCATION. Applicants must have sent to the Department directly from the issuing institution an official transcript showing graduation ~~1. Have graduated from an accredited pharmacy program; or the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification given by the National Association of Boards of Pharmacy (NABP).~~

~~2. Have satisfactorily completed not less the 1500 hours of pharmacy internship experience;~~

003.01(B) EXAMINATION. Applicants must have sent to the Department directly from the issuing institution a detailed score report showing successful completion of the following:

~~3.(i) Pass the North American Pharmacist Licensure Examination (NAPLEX) or its predecessor exam given by the National Association of Boards of Pharmacy (NABP) with a score of 75 or above; and~~

~~4.(ii) Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) that relates to federal law and the Nebraska statutes and regulations that govern the practice of pharmacy given by National Association of Boards of Pharmacy (NABP) with a score of 75 or above;~~

~~5. Be of good moral character and have attained at least the age of 21; and~~

~~6. Submit to the Department:~~

~~a. An application for licensure as a pharmacist, that must include the following information:~~

~~(1) Legal name;~~

~~(2) Place and date of birth;~~

~~(3) Social Security Number;~~

~~(4) Mailing address;~~

~~(5) Telephone number (optional)~~

~~(6) E-mail address/fax number (optional)~~

~~(7) Permanent address;~~

~~(8) Name and location of accredited pharmacy program attended by the applicant;~~

~~(9) Date of graduation from accredited pharmacy program;~~

~~(10) Whether the applicant is applying by examination, by score transfer or by reciprocity;~~

~~(11) Answer the following questions either yes or no; if answered yes, explain the circumstances and the outcome:~~

~~(a) Has any state or territory of the U.S. ever taken any of the following actions against your license?~~

~~Denied Limited Restricted Revoked Suspended~~

~~(b) Has any licensing or disciplinary authority ever taken any of the following actions against your license?~~

~~Denied Limited Restricted Revoked Suspended~~

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06-26-2020

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES 172 NAC 128

- ~~(c) Has any licensing or disciplinary authority placed your license on probation?~~
 - ~~(d) Have you ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?~~
 - ~~(e) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?~~
 - ~~(f) Have you ever been requested to appear before any licensing agency?~~
 - ~~(g) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?~~
 - ~~(h) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?~~
 - ~~(i) Have you ever been treated for alcohol or substance abuse?~~
 - ~~(j) During the past ten years, have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?~~
 - ~~(k) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?~~
 - ~~(l) Have you ever been convicted of a felony?~~
 - ~~(m) Have you ever been convicted of a misdemeanor?~~
 - ~~(n) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?~~
 - ~~(o) Have you ever been notified of any malpractice claim against you?~~
- ~~(12) Have you ever been licensed as a pharmacist in another state/jurisdiction?~~
- ~~(a) If yes, list all the states/jurisdiction where you have been or are currently licensed, including license number, issuance date and expiration date;~~
- ~~(13) A statement from the applicant that s/he is of good moral character and that the statements on the application are true and complete.~~
- ~~b. Official documentation of successful completion of a pharmacy degree program of an accredited pharmacy program;~~
 - ~~c. Official documentation of passing the NAPLEX with a score of 75 or above, sent directly to the Department by NABP;~~

- d. ~~Official documentation of passing the MPJE for Nebraska with a score of 75 or above, sent directly to the Department by NABP;~~
- e. ~~Official documentation of satisfactory completion of not less than 1500 hours of pharmacy internship experience, sent directly to the Department from the accredited pharmacy program or another state Board of Pharmacy;~~
- f. ~~Certification of licensure (if applicable) which reflects the status of licensure, how license was obtained, date of issuance, expiration date; and any disciplinary information (if applicable), sent directly to the Department, from the state Board of Pharmacy;~~
- g. ~~The required licensure fee pursuant to 172 NAC 128-017; and~~
- h. ~~A copy of the applicant's birth certificate, marriage license, driver's license, or other valid verification of age.~~

003.01(C) RECIPROCITY. Applicants must submit to the Department proof of having met one of the following requirements to demonstrate his or her current competency:~~128-~~

003.02 An applicant for licensure as a pharmacist on the basis of reciprocity from another state/jurisdiction must:

- (i) Has been in the active practice of the profession of pharmacy in another state, territory, or the District of Columbia for at least 1 year within the 3 years immediately preceding the application for licensure;
 - (ii) Has become board certified in a specialty recognized by the Board of Pharmacy Specialties or its successor within 7 years immediately preceding the application for licensure; or
 - (iii) Is licensed as a pharmacist in some other state, territory, or the District of Columbia and has completed continuing competency in pharmacy that is approved by the Board of Pharmacy.
- 1. ~~Be duly licensed/registered by examination in another state in which, under like conditions, reciprocal licensure/registration as a pharmacist, without examination, is granted to pharmacists duly licensed by examination in Nebraska;~~
 - 2. ~~Have graduated from an accredited pharmacy program;~~
 - 3. ~~Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) that relates to federal law and the Nebraska statutes and regulations that govern the practice of pharmacy given by NABP with a score of 75 or above;~~
 - 4. ~~Be of good moral character and have attained at least the age of 21; and~~
 - 5. ~~Submit to the Department;~~
 - (a) ~~An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (13);~~
 - (b) ~~Official documentation of successful completion of a pharmacy degree program of an accredited pharmacy program;~~
 - (c) ~~Official documentation of passing the MPJE for Nebraska with a score of 75 or above, sent directly to the Department by NABP;~~
 - (d) ~~Official Application for Transfer of Pharmaceutical Licensure issued by NABP;~~

- ~~(e) The required licensure fee pursuant to 172 NAC 128-017; and~~
- ~~(f) A copy of the applicant's birth certificate, marriage license, driver's license, or other valid verification of age.~~

003.02 PHARMACIST INTERN REGISTRATION. To obtain a pharmacist intern registration an applicant must meet the requirements of Neb. Rev. Stat. § 38-2854 and submit one of the following:

- (A) Documents from an educational institution showing current enrollment in an accredited pharmacy program;
- (B) Official transcript from an accredited pharmacy program; or
- (C) Copy of the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification given by National Association of Boards of Pharmacy (NABP).

003.03 PHARMACY TECHNICIAN REGISTRATION. To obtain a pharmacy technician registration 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. § 38-2890.

128-003.03 A foreign trained applicant for licensure as a pharmacist on the basis of examination or score transfer must:

- ~~1. Have graduated from a foreign pharmacy program;~~
- ~~2. Have obtained the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification given by NABP;~~
- ~~3. Have satisfactorily completed not less the 1500 hours of pharmacy internship experience;~~
- ~~4. Pass the North American Pharmacist Licensure Examination (NAPLEX) given by NABP with a score of 75 or above;~~
- ~~5. Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) that relates to federal law and the Nebraska statutes and regulations that govern the practice of pharmacy given by NABP with a score of 75 or above;~~
- ~~6. Have good moral character and have attained at least the age of 21; and~~
- ~~7. Submit to the Department:~~
 - ~~(a) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (13);~~
 - ~~(b) Official translated documentation of successful completion of a pharmacy degree from a foreign pharmacy program;~~
 - ~~(c) A copy of his/her certificate from the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification Program of NABP;~~
 - ~~(d) Official documentation of passing the NAPLEX with a score of 75 or above, sent directly to the Department by NABP;~~
 - ~~(e) Official documentation of passing the MPJE for Nebraska with a score of 75 or above, sent directly to the Department by NABP;~~

- ~~(f) Official documentation of satisfactory completion of not less than 1500 hours of pharmacy internship experience, sent directly to the Department from another state Board of Pharmacy;~~
- ~~(g) Certification of licensure (if applicable) which reflects the status of licensure, how license was obtained, date of issuance, expiration date; and any disciplinary information (if applicable), sent directly to the Department, from the state Board of Pharmacy;~~
- ~~(h) The required licensure fee pursuant to 172 NAC 128-017; and~~
- ~~(i) A copy of the applicant's birth certificate, marriage license, driver's license, or other valid verification of age.~~

~~128-003.04 A foreign trained applicant for licensure as a pharmacist on the basis of reciprocity from another state/jurisdiction must:~~

- ~~1. Be duly licensed/registered by examination in another state/jurisdiction in which, under like conditions, reciprocal licensure/registration as a pharmacist, without examination, is granted to pharmacists duly licensed by examination in Nebraska;~~
 - ~~2. Have graduated from a foreign pharmacy program;~~
 - ~~3. Have obtained the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification given by NABP;~~
 - ~~4. Pass the Multistate Pharmacy Jurisprudence Examination (MPJE) that relates to federal law and the Nebraska statutes and regulations that govern the practice of pharmacy given by NABP with a score of 75 or above;~~
 - ~~5. Be of good moral character and have attained at least the age of 21; and~~
 - ~~6. Submit to the Department;~~
- ~~(a) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (13);~~
 - ~~(b) Official documentation of successful completion of a pharmacy degree from a foreign pharmacy program;~~
 - ~~(c) A copy of his/her certificate from the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification Program of NABP;~~
 - ~~(d) Official documentation of passing the MPJE for Nebraska with a score of 75 or above, sent directly to the Department by NABP;~~
 - ~~(e) Official Application for Transfer of Pharmaceutical Licensure issued by NABP;~~
 - ~~(f) The required licensure fee pursuant to 172 NAC 128-017; and~~
 - ~~(g) A copy of the applicant's birth certificate, marriage license, driver's license, or other valid verification of age.~~

~~128-003.05 The Department will act within 150 days upon all completed applications for licensure.~~

~~128-003.06~~ A pharmacist may use the identifying terms or designations such as: pharmacist, registered pharmacist, R.P., R.Ph., pharmacist-in-charge, or licensed pharmacist that indicates a pharmacist with an active license to practice pharmacy in Nebraska.

~~128-003.07~~ No one, other than a duly licensed pharmacist, is allowed to use the following terms or designations or any other terms, designations, or letters implying licensure as a pharmacist in this state or in any other jurisdiction:

- ~~1. pharmacist,~~
- ~~2. registered pharmacist, R.P., or R.Ph.,~~
- ~~3. pharmacist-in-charge,~~
- ~~4. licensed pharmacist, or~~
- ~~5. natural pharmacist, herbal pharmacist.~~

004. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The individual must meet the requirements set out in 172 NAC 10 and this chapter.~~128-004 PROCEDURES FOR RENEWAL OF A LICENSE:~~ All licenses issued by the Department under the Act and 172 NAC 128 expire on January 1 of each even-numbered year.

004.01 CREDENTIAL EXPIRATION DATES. All pharmacist licenses issued by the Department expire on January 1 of each even-numbered year. All pharmacy technician registrations issued by the Department expire on January 1 of each odd-numbered year. Pharmacist intern registrations are not renewable and expire as set out in Neb. Rev. Stat. § 38-2854.~~128-004.01 Renewal process:~~ Any licensee who wishes to renew his/her license must:

- ~~1. Meet the continuing competency requirements pursuant to 172 NAC 128-006;~~
- ~~2. Pay the renewal fee pursuant to 172 NAC 128-017;~~
- ~~3. Respond to the following questions:~~
 - ~~a. Has your license 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 or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.~~

- ~~4. Cause to be submitted to the Department:~~
 - ~~a. The renewal notice;~~
 - ~~b. The renewal fee;~~
 - ~~c. Attestation of completing 30 hours of continuing education earned within~~

- ~~24 months of the date of expiration or an application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of documentation requirement of Neb. Rev. Stat. § 71-110;~~
- d. ~~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;~~
- e. ~~If the licensee 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 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.~~

~~128-004.02 First Notice: At least 30 days before January 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.~~

~~128-004.02A The renewal notice must specify:~~

- ~~1. The name of the licensee;~~
- ~~2. The licensee's last known address of record;~~
- ~~3. The license number;~~
- ~~4. The expiration date of the license;~~
- ~~5. The renewal fee pursuant to 172 NAC 128-017;~~
- ~~6. The number of continuing education hours or type of continued competency required for renewal; and~~
- ~~7. The option to place the license on either inactive or lapsed status.~~

~~128-004.02B The licensee must apply for renewal by submitting to the Department:~~

- ~~1. The renewal notice;~~
- ~~2. The renewal fee;~~
- ~~3. The licensee's social security number;~~
- ~~4. Attestation of completing 30 hours of continuing education earned within 24 months of the date of expiration or an application for waiver of continuing competency; and~~

- ~~5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action since the last renewal (if applicable).~~

~~128-004.02C If the licensee 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.~~

~~128-004.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.~~

~~128-004.03 Second Notice: The Department will send to each licensee 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 pursuant to 172 NAC 128-004.01 that specify:~~

- ~~1. That the licensee 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 128-018 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 pursuant to 172 NAC 128-005.~~

~~128-004.03A The licensee 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's social security number;~~
- ~~4. Attestation by the licensee;~~

- 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 30 hours of continuing education earned within 24 months of the date of expiration or an application for waiver of continuing competency; and~~
6. ~~Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action since the last renewal (if applicable).~~

~~128-004.03B~~ If the licensee 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.~~

~~128-004.03C~~ The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

~~128-004.04~~ When any licensee 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 of hearing and makes proper record of the revocation.

~~128-004.05~~ 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 fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and 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 pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

EFFECTIVE DATE ~~NEBRASKA HEALTH AND HUMAN SERVICES~~
November 1, 2005 ~~REGULATION AND LICENSURE~~ 172 NAC 128

DRAFT NEBRASKA DEPARTMENT OF
06-26-2020 HEALTH AND HUMAN SERVICES 172 NAC 128

~~128-004.06~~ When the licensee 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 004.04 and 004.05 will not apply.

~~128-004.07~~ The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

~~128-004.08~~ An individual who practices after the expiration of his/her credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 128-018, or such other action as provided in the statutes and regulations governing the credential.

005. CONTINUING COMPETENCY. During the 24 months prior to the license renewal date, individuals holding active licenses must complete 30 of continuing education hours from an approved continuing education provider.

005.01 APPROVED CONTINUING EDUCATION PROVIDERS. The following are approved continuing education providers:

- (A) The Accreditation Council for Pharmacy Education (ACPE);
- (B) The Nebraska Council for Continuing Pharmacy Education (NCCPE);
- (C) The Accreditation Council for Continuing Medical Education (ACCME) Category 1 continuing education; or
- (D) Other providers demonstrating the same quality continuing education standards as those established in the Criteria for Quality of Accreditation Council for Pharmacy Education (ACPE) and approved by the Board of Pharmacy.

005.02 PHARMACY SPECIALTY CERTIFICATION. Certification in a specialty through the Board of Pharmacy Specialties which is obtained or maintained during the renewal period meets the requirement for continuing competency.

005.03 DIABETES EDUCATOR CERTIFICATION. Certification through the National Certification Board of Diabetes Educators (NCBDE) which is obtained or maintained during the renewal period meets the requirement for continuing competency.

~~128-005 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:~~
The Department will revoke a credential when the credential holder fails to meet the renewal requirements.

~~128-005.01 Revocation for Nonpayment of Renewal Fee or Late fee, or Failure to Submit Documentation of Continuing Competency within 30 Days of Expiration of the Credential.~~

~~128-005.01A~~ 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.~~

~~128-005.01A1 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. Department has revoked the credential; and~~
- ~~4. The credential holder has a right to request reinstatement of the credential.~~

~~128-005.02 Revocation for Failure to Meet Continuing Competency Requirements.~~

~~128-005.02A 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.~~

~~128-005.02A1 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 30 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.~~

006. IDENTIFICATION REQUIREMENTS. Each individual must be properly identified as set out in Neb. Rev. Stat. § 38-124, and this chapter.

006.01 PHARMACIST. Each pharmacist must be identified as a pharmacist while performing the duties of a pharmacist within a facility licensed under the Health Care Facility Licensure Act.

006.02 PHARMACIST INTERN. Each pharmacist intern must be identified as a pharmacist

intern while performing the duties of a pharmacist intern.

006.03 PHARMACY TECHNICIAN. Each pharmacy technician must be identified as a pharmacy technician while performing the duties of a pharmacy technician.

128-006 CONTINUING COMPETENCY

128-006.01 General Requirements for Licensee: On or before January 1 of each even-numbered year, every Pharmacist who is licensed in the State of Nebraska must as a condition for renewal of his/her license:

128-006.01A Complete 30 hours of acceptable continued education during the preceding 24 month period, no more hours than the total number of acceptable hours offered in Nebraska will be required during this period.

128-006.01A1 The Board of Pharmacy has approved the following providers of continuing education:

1. The Accreditation Council for Pharmacy Education (ACPE);
2. The Nebraska Council on Continuing Pharmaceutical Education; or
3. Other providers demonstrating the same quality standards as those established in the Criteria for Quality of ACPE.

128-006.01B Be responsible for maintaining in his/her personal files certificates or records of credit from acceptable continuing education activities attended.

128-006.02 Waiver of Continuing Competency: The Department, on recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any two year license or for the period of time when a licensee submits documentation that circumstances beyond his/her control prevented the completion of such requirements.

128-006.02A Such circumstances will include situations in which the licensee:

1. Holds a Nebraska pharmacist license but has not practiced in Nebraska during the 24 months immediately preceding the license renewal date; or
2. Has been in the service of regular armed forces of the United States during any part of the 24 months immediately preceding the license renewal date; or
3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or
4. Has been first licensed in Nebraska within 24 months immediately preceding the renewal date.

EFFECTIVE DATE ~~NEBRASKA HEALTH AND HUMAN SERVICES~~
November 1, 2005 ~~REGULATION AND LICENSURE~~ 172 NAC 128

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~~128-006.02B Application for Wavier of Continuing Competency: Any licensee who seeks wavier of continuing competency requirements, in part or in total, for any two year licensing period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing competency requirements in part or in total for any two year period.~~

~~128-006.03 Audit of Continuing Competency: The Board may biennially select, in a random manner, a sample of the licensee renewal applications for audit of continuing competency. Licensees selected for audit are required to produce documentation of his/her continuing education activities listed on his/her renewal application.~~

~~128-006.03A The Department will send to each licensee selected for audit a notice of audit.~~

~~128-006.03B When selected for audit the licensee must provide satisfactory documentation of attendance at or participation in the acceptable continuing education activities listed on the licensees attestation of continuing competency of his/her renewal application.~~

~~128-006.03C Failure to comply with the audit may be grounds for non-renewal of the license.~~

007. SUPERVISION OF PHARMACIST INTERN. A pharmacist intern must be supervised as set out in Neb. Rev. Stat. § 38-2866.01. This supervision must be provided by a pharmacist who possesses a Nebraska pharmacist license which is free from disciplinary measures at the time of supervision.

007.01 ONE OR MORE SUPERVISORS. Nothing in this chapter will be construed to prohibit 1 pharmacist intern or 1 pharmacy technician from being supervised by more than 1 pharmacist at any time.

007.02 PHARMACIST INTERN. A pharmacist intern must not supervise another pharmacist intern nor a pharmacy technician.

007.03 COMPLIANCE. In the case of a pharmacist intern, the result of failure to comply with any of these standards may be loss of accumulated pharmacist internship hours and revocation of any credential issued on the basis of such pharmacist internship.

128-007 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

~~128-007.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 128-003 or is found to be in violation of any of the provisions of 172 NAC 128.~~

~~128-007.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 128-004, 128-006.03C, or 128-007.03.~~

~~128-007.03~~ The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:

- ~~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 (LAP) established pursuant to Neb. Rev. Stat. § 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 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 gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means 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/certificate/registration/permit by a person not licensed/certified/registered/permitted to do so;~~
- ~~9. Having had his/her license, certificate, registration, or permit denied, refused renewal, limited, suspended, or revoked or having had such license, certificate, or registration disciplined in any other manner in accordance with Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, certificate holder, registrant, or permit holder similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, registration, or permit or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence;~~
- ~~10. Unprofessional conduct, which term includes all acts pursuant to Neb. Rev. Stat. § 71-148 and such other acts as may be defined in rules and regulations adopted and promulgated by the Board with the approval of the Department;~~
- ~~11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's/certificate~~

- holder's/registrant's/permit 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 is not licensed or certified to practice;~~
 - ~~16. Practicing the profession of Pharmacy while his/her license is suspended or in contravention of any limitation placed upon his/her license;~~
 - ~~17. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or licensee unqualified to practice Pharmacy;~~
 - ~~18. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 thru 71-161.16 to determine his/her qualifications to practice or to continue in the practice of Pharmacy;~~
 - ~~19. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the Act; and~~
 - ~~20. Failure to file a report pursuant to Neb. Rev. Stat. § 71-168.~~

128-008 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.

128-008.01 Eligibility

128-008.01A 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.~~

128-008.01B 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.

128-008.01C An individual who practices prior to re-credentialing, is subject to:

- ~~1. Assessment of an Administrative Penalty pursuant to 172 NAC 128-018, 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.~~

~~128-008.02 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 128-003.~~

~~128-008.02A 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 128-018;~~
- ~~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.~~

~~128-008.02B 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.~~

~~128-008.02C The Department will act within 150 days on all completed applications.~~

~~128-008.02D 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 128-008.02A and 128-008.02B are final.~~

~~128-008.03 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 moved 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;~~
 - ~~(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.~~

~~128-008.04 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;~~
- ~~d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential; and~~
- ~~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. Attestation that the continuing competency requirements for renewal have been met;~~

~~2. The renewal fee and any other applicable fees.~~

~~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.~~

~~128-008.04A If an applicant has practiced while his/her credential was inactive, the Department may:~~

~~1. Assess an Administrative Penalty pursuant to 172 NAC 128-018;~~

~~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.~~

~~128-008.04B 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.~~

~~128-008.04C In either event pursuant to 172 NAC 128-008.04A or 128-008.04B, a notice and the opportunity for hearing will be given to the applicant.~~

~~128-008.04D The Department will act within 150 days on all completed applications.~~

~~128-008.05 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;~~
 - 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.~~

~~128-008.06 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;~~
 - d. ~~If the applicant holds a professional credential in another state, a list of the state(s) and type of credential; and~~
 - 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. Attestation that the continuing competency requirements for renewal have been met;~~

~~2. The renewal fee, the late fee of \$35 and any other applicable fees.~~

~~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 128-018 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 128-008.06B below.~~

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

~~128-008.06A The Board's recommendation to the Department may be to:~~

~~1. Reinstate the credential;~~

~~2. Reinstate the credential with terms, conditions or restrictions; or~~

~~3. Deny reinstatement.~~

~~128-008.06B~~ 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 128-018 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 128-018 if warranted; or~~
 - ~~b. Denial of 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.~~~~

~~128-008.07~~ 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 as prescribed in 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.~~

~~128-008.08 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) Attestation that the continuing competency requirements for renewal have been met.~~

~~2. The renewal fee, the late fee of \$75 and any other applicable fees.~~

~~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 128-018 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 128-008.08F below.~~

~~128-008.08A 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.~~

~~128-008.08B 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.~~

~~128-008.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~

~~128-008.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board, if formally requested by the petitioner.~~

~~128-008.08D1~~ 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.

~~128-008.08E~~ 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-~~

~~128-008.08F~~ 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.

~~128-008.08F1~~ 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.~~~~

~~128-008.08F2~~ 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.

~~128-008.08F3~~ 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.~~

~~128-008.08F4~~ 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.

~~128-008.08F5~~ 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.

~~128-008.09 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 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~~
 - ~~b. 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.~~

~~128-008.10 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;~~

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~~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.~~

~~a. Containing the following information about the petitioner:~~

~~(1) Name;~~

~~(2) Address;~~

~~(3) Social security number;~~

~~(4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential; and~~

~~(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.~~

~~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 128-018 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 128-008.10G below.~~

~~128-008.10A 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.~~

~~128-008.10B 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.~~

~~128-008.10C 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.~~

~~128-008.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~

~~128-008.10E 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.~~

~~128-008.10E1 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.~~

~~128-008.10E2 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 the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.~~

~~128-008.10F 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.~~

~~128-008.10G 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.~~

~~128-008.10G1 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.~~

~~128-008.10G2 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.~~

~~128-008.10G3~~ 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.~~

~~128-008.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time.~~

~~128-008.11A~~ 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.

~~128-008.11A1~~ 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;~~
- d. ~~If the applicant holds a professional credential in another state, a list of the state(s) and type of credential; and~~
- 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. Attest:~~

~~(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.~~

~~128-008.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 128-018;~~
- ~~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.~~

~~128-008.11A3 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.~~

EFFECTIVE DATE ~~NEBRASKA HEALTH AND HUMAN SERVICES~~
November 1, 2005 ~~REGULATION AND LICENSURE~~ 172 NAC 128

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06-26-2020 HEALTH AND HUMAN SERVICES 172 NAC 128

~~128-008.11A4~~ In either event pursuant to 172 NAC 128-008.11A2 or 128-008.11A3, a notice and the opportunity for hearing will be given to the applicant.

~~128-008.11A5~~ The Department will act within 150 days on all completed applications.

~~128-008.12~~ Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time.

~~128-008.12A~~ 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.

~~128-008.12B~~ 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 128-018.

~~128-008.13~~ Credentials Voluntarily Surrendered or Limited Permanently.

~~128-008.13A~~ Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

008.128-009 UNPROFESSIONAL CONDUCT. Unprofessional conduct includes those acts set out in Neb. Rev. Stat. § 38-179 and this chapter. In addition to the unlawful or unprofessional acts listed in Neb. Rev. Stat. §§ 71-147 through 71-148, the following conduct will be considered unprofessional acts as defined by the Board per Neb. Rev. Stat. § 71-147(10):

- ~~1. Return of dispensed drugs or devices to saleable stock, unless specifically allowed by law;~~
- ~~2. Failure to conduct patient/client counseling, unless specifically exempt as provided in Neb. Rev. Stat. § 71-1,147.35;~~
- ~~3. Claiming credit for any continuing education activities not actually participated in and earned;~~
- ~~4. Willfully or negligently violating the confidentiality between a pharmacist and a patient, except as allowed by law;~~
- ~~5. Any false or misleading statement on a pharmacy self inspection form;~~
- ~~6. Practicing pharmacy under a false or assumed name;~~
- ~~7. Except as otherwise permitted by law, dispensing, selling, administering, distributing, ordering, or giving to a person, known by the pharmacist to be an addict or any person previously drug dependent, any drug legally classified as a controlled substance;~~
- ~~8. Refusal to allow access to the records required to be kept pursuant to 175 NAC 8-006.03;~~

- (A) ~~9. Refusal to cooperate or furnish requested information during a licensing or discipline evidentiary information, legally requested in writing, in an investigation by the Department or law enforcement of any alleged violation;~~
- ~~10. Violation of any provision(s) of the Pharmacy Practice Act, or the Uniform Controlled Substances Act, or the rules and regulations of the Department or of an action, stipulation, or agreement of the Board or Department;~~
- ~~11. Any violation of the federal Controlled Substances Act;~~
- ~~12. Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the pharmacist or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, drugs, devices, or biologicals;~~
- ~~13. Refusal to provide professional service to a person because of such person's race, creed, color, or national origin;~~
- ~~14. Dispensing, selling, or administering anabolic steroids to a person for other than therapeutic purposes;~~
- ~~15. Lack of or inappropriate direction, collaboration or direct supervision of any person employed by, supervised by or assigned to the pharmacist;~~
- ~~16. Any violation of the Medicare / Medicaid anti-kickback statute, 42 United States Code Chapter 7 Section 1320a-7b(b), which prohibits illegal remuneration, including but not limited to any kick-back or bribe;~~
- ~~17. Any violation of the federal Resource Conservation and Recovery Act;~~
- ~~18. Any violation of the federal Prescription Drug Marketing Act of 1987;~~
- ~~19. Any violation of the federal Poison Prevention Packaging Act of 1970;~~
- ~~20. Any violation of the Cancer Drug Repository Program Act;~~
21. (B) Any departure from or failure to conform to the ethics of the pharmacy profession, which code of ethics were adopted by the membership of the American Pharmacists Association on October 27, 1994, and are attached to these regulations and incorporated by this reference;
- ~~22. Misrepresentation of material facts in applying for or procuring a renewal of a license/certification/registration/permit;~~
23. (C) Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer; ~~or~~
- ~~24. The use of false or deceptive statements in any advertisement.~~
- (D) Refusal to provide professional service to a person because of such person's race, color, religion, sex, ancestry, age, familial status, disability, or national origin;
- (E) Refusal to undergo a competency evaluation as required by the Board of Pharmacy;
- (F) Failure to ensure a verbal offer to counsel is made, unless specifically exempt as provided in Neb. Rev. Stat. § 38-2869(2)(e);
- (G) Willfully or negligently violating the confidentiality between a pharmacist and a patient, except as allowed by law;
- (H) Except as otherwise permitted by law, dispensing, selling, administering, distributing, ordering, or giving to a person, known by the pharmacist to be an addict or any person previously drug dependent, any drug legally classified as a controlled substance;
- (I) Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the pharmacist or of a third party, which includes, but is not limited to,

- the promotion or sale of services, goods, drugs, devices, or biologicals;
- (J) Refusal to allow access to the records appropriate to practice pharmacy in a facility and required to be kept as set out in 175 NAC 8;
 - (K) Return of dispensed drugs or devices to saleable stock, unless specifically allowed by law;
 - (L) Dispensing, selling, or administering anabolic steroids to a person for other than therapeutic purposes;
 - (M) Practicing pharmacy under a false or assumed name;
 - (N) Lack of appropriate direction, collaboration, or supervision of any person employed by, supervised by or assigned to the pharmacist;
 - (O) Claiming credit for any continuing competency activities not actually participated in and earned;
 - (P) Any false or misleading statement on a pharmacy self-inspection form.

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

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

128-010 TEMPORARY EDUCATIONAL PERMIT

128-010.01 Permit Requirements: An applicant for a temporary educational permit must:

1. ~~Have graduated from an accredited pharmacy program;~~
2. ~~Be of good moral character and attained the age of 21;~~
3. ~~Have been requested by an accredited hospital or clinic or an accredited pharmacy program in the State of Nebraska to serve as a graduate student in its approved program; and~~
4. ~~Submit to the Department:~~
 - a. ~~An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (8) and (11) through (13);~~
 - b. ~~Name and location of the accredited hospital or clinic or the accredited pharmacy program where the applicant will be serving in a supervised educational program or the approved graduate pharmacy education program, which should include dates of service;~~
 - c. ~~A signed statement from the applicant requesting that a temporary educational permit be issued and verifying that all information in the application is true and correct.~~
 - d. ~~Official documentation that an accredited hospital or clinic or an accredited pharmacy program in the State of Nebraska has requested that the applicant will be serving as a graduate student in its approved program for a set period of time;~~
 - e. ~~The required temporary educational permit fee pursuant to 172 NAC 128-017; and~~

- f. ~~A copy of a birth certificate, marriage license, driver's license, or other valid verification of age.~~

~~128-010.02 The Department will act within 150 days upon all completed applications for licensure.~~

~~128-010.03 Procedures for Renewal of Temporary Educational Permit: A temporary educational permit issued by the Department under the Act and these Regulations will expire one year from the date of issuance. The permit may be renewed for no more than five one-year periods.~~

~~128-010.03A Renewal Process: A temporary educational permit holder who wishes to renew his/her temporary educational permit must:~~

- ~~1. Provide documentation that s/he is currently enrolled in an supervised educational program or the approved graduate pharmacy education program;~~
- ~~2. Respond to the following questions:
 - ~~a. Has your license/permit 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 permit or during the time period since the permit was issued.~~

- ~~3. Submit to the Department:
 - ~~a. The renewal notice;~~
 - ~~b. Documentation that s/he is currently enrolled in a supervised educational program or the approved graduate pharmacy education program;~~
 - ~~c. 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;~~
 - ~~d. If the licensee 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 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.~~

~~128-010.03B First Notice: At least 30 days before the temporary educational permit is due to expire, the Department will send a renewal notice by means of regular mail to each temporary educational permit holder at his/her last place of residence as noted in the records of the Department. It is the responsibility of the temporary educational permit holder, prior to the renewal period, to notify the Department of any name and/or address changes.~~

~~128-010.03B1 The renewal notice will specify:~~

- ~~1. The name of the temporary educational permit holder;~~
- ~~2. The temporary educational permit holder's last known address of record;~~
- ~~3. The temporary educational permit number;~~
- ~~4. The expiration date of the temporary educational permit;~~
- ~~5. Answer the following questions either yes or no; if you answer yes, explain the circumstances and the outcome:
 - ~~a. Have you ever been convicted of a misdemeanor or a felony?~~
 - ~~b. Have you ever been denied a license or the right to take an examination?~~
 - ~~c. Have a current license in another state or jurisdiction?
 - ~~(1) List all the other states/jurisdictions where you have been licensed or are currently licensed, including license number and expiration date.~~~~
 - ~~d. Has your pharmacist license in any state or jurisdiction ever been suspended, revoked, or disciplined in any manner? (if applicable)~~~~
- ~~6. A signed statement from the applicant that he/she is renewing his/her temporary educational permit, is still in supervised educational program or the approved graduate pharmacy education program in the State of Nebraska, he/she is the person referred to in this renewal, and that the statements are true and complete.~~

~~128-010.02B2 The permit holder must apply for renewal by submitting to the Department:~~

- ~~1. The renewal notice;~~
- ~~2. The permit holder's social security number;~~
- ~~3. Documentation that s/he is currently enrolled in a supervised educational program or the approved graduate pharmacy education program;~~
- ~~4. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).~~

~~128-010.03C Second Notice:~~ The Department must send to each temporary educational permit holder who fails to renew his/her temporary educational permit in response to the first notice, a second notice of renewal pursuant to 172 NAC 128-010.03B that specifies:

- ~~1. The temporary educational permit holder failed to renew his/her temporary educational permit;~~
- ~~2. The temporary educational permit has expired;~~
- ~~3. The Department will suspend action for 30 days following the date of expiration;~~
- ~~4. Upon receipt of the renewal notice and documentation of current enrollment, no order of revocation will be entered; and~~
- ~~5. Upon failure to receive the renewal notice and documentation of current enrollment the temporary educational permit will be revoked pursuant to 172 NAC 128-005.~~

~~128-010.03C1~~ The temporary educational permit holder must apply for renewal by submitting to the Department:

- ~~1. The renewal notice;~~
- ~~2. The permit holder's social security number;~~
- ~~3. Documentation that s/he is currently enrolled in a supervised educational program or the approved graduate pharmacy education program;~~
- ~~4. Attestation by the licensee:
 - ~~a. That s/he has not practiced in Nebraska since the expiration of his/her permit; or~~
 - ~~b. To the actual number of days practiced in Nebraska since the expiration of his/her license;~~~~
- ~~5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).~~

~~128-010.03D~~ When any permit holder fails, within 30 days of expiration of the permit, to submit documentation that s/he is currently enrolled in a supervised educational

~~program or the approved graduate pharmacy education program, the Department will automatically revoke the permit without further notice of hearing and make proper record of the revocation.~~

~~128-010.03E The Department may refuse to renew a temporary educational permit for falsification of any information submitted for renewal of the permit. Such refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1.~~

128-011 PHARMACIST INTERN REQUIREMENTS

~~128-011.01 An applicant for registration as a pharmacist intern may apply at any time following enrollment in an accredited pharmacy program, or having graduated from a foreign pharmacy program, or if a pharmacy graduate, not licensed in Nebraska, application may be made at any time prior to licensure as a pharmacist in Nebraska.~~

~~128-011.02 An applicant for registration as a pharmacist intern on the basis of current enrollment in an accredited pharmacy program must:~~

- ~~1. Be currently enrolled in an accredited pharmacy program; and~~
- ~~2. Submit to the Department:~~
 - ~~a. An application for registration as a pharmacist intern, that must include the following information:~~
 - ~~(1) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (8) and (11) through (13);~~
 - ~~(2) Official documentation of the month and year the applicant enrolled in the pharmacy program and the expected month and year of graduation;~~
 - ~~(3) A statement that the applicant is aware that s/he must not practice as a pharmacist intern without the immediate personal supervision of a licensed pharmacist; and~~
 - ~~(4) A signed statement from the applicant verifying that all information in the application is true and correct;~~
 - ~~(5) The required licensure fee pursuant to 172 NAC 128-017; and~~
 - ~~b. A copy of a birth certificate, marriage license, driver's license, or other valid verification of age.~~

~~128-011.03 An applicant for registration as a pharmacist intern on the basis of graduation from a foreign pharmacy program must:~~

- ~~1. Have graduated from a foreign pharmacy program;~~
- ~~2. Have obtained the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification given by NABP;~~

~~3. Submit to the Department:~~

~~a. An application for registration as a pharmacist intern, that must include the following information:~~

- ~~(1) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (8) and (11) through (13);~~
- ~~(2) Official documentation of successful completion of a pharmacy degree from a foreign pharmacy program;~~
- ~~(3) A copy of his/her certificate from the Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification Program of NABP;~~
- ~~(4) A statement that the applicant is aware that s/he must not practice as a pharmacist intern without the supervision of a licensed pharmacist; and~~
- ~~(5) A signed statement from the applicant verifying that all information in the application is true and correct;~~
- ~~(6) The required licensure fee pursuant to 172 NAC 128-017; and~~
- ~~(7) A copy of a birth certificate, marriage license, driver's license, or other valid verification of age.~~

~~128-011.04 An applicant for registration as a pharmacist intern on the basis of graduation from an accredited pharmacy program must:~~

- ~~1. Have graduated from an accredited pharmacy program;~~
- ~~2. Submit to the Department:~~

~~a. An application for registration as a pharmacist intern, that must include the following information:~~

- ~~(1) An application pursuant to 172 NAC 128-003.01 item 6.a.(1) through (8) and (11) through (13);~~
- ~~(2) Official documentation of the month and year the applicant graduated from the pharmacy program;~~
- ~~(3) A statement that the applicant is aware that s/he must not practice as a pharmacist intern without the supervision of a licensed pharmacist; and~~
- ~~(4) A signed statement from the applicant verifying that all information in the application is true and correct;~~
- ~~b. The required licensure fee pursuant to 172 NAC 128-017; and~~
- ~~c. A copy of a birth certificate, marriage license, driver's license, or other valid verification of age.~~

~~128-011.05 The Department will act within 150 days upon all completed applications for licensure.~~

~~128-011.06~~ A pharmacist intern must notify the Department of any change in enrollment, address, or name.

~~128-011.07~~ A pharmacist intern registration based on enrollment in or graduation from an accredited pharmacy program expires not later than 15 months after the date of graduation or at the time of professional licensure, whichever comes first.

~~128-011.08~~ A pharmacist Intern registration based on graduation from a pharmacy program located outside of the United States which is not accredited expires not later than 15 months after the date of issuance of the registration or at the time of professional licensure, whichever comes first.

~~128-011.09~~ No person may function as a pharmacist intern until s/he receives a registration card from the Department. A pharmacist intern must have his/her registration card available at all times when functioning as an intern.

~~128-011.10~~ When a pharmacist intern desires to obtain credit for experience received in a state other than Nebraska, s/he must abide by all the provisions of the internship rules in that state, and must provide evidence of the number of pharmacy internship hours actually participated in by the pharmacist intern from:

- ~~1. The state Board of Pharmacy where the pharmacy internship hours were earned;~~
~~or~~
- ~~2. The Nebraska-licensed pharmacist who supervised the training.~~

All pharmacy internship hours submitted to the Department must contain a notarized signature of the supervising Nebraska-licensed pharmacist or be certified by the state Board of Pharmacy.

~~128-011.11~~ The maximum number of hours which may be accepted from experiential training directed by an accredited pharmacy program are:

- ~~1. 640 hours, if the applicant for licensure as a pharmacist was awarded a Bachelor's degree in Pharmacy; or~~
- ~~2. 1500 hours, if the applicant for licensure as a pharmacist was awarded a Doctor of Pharmacy degree.~~

~~128-011.12~~ A pharmacist intern must be supervised at all times while performing the functions of a pharmacist intern, which may include all aspects of the practice of pharmacy, unless otherwise restricted. This supervision must be provided by a pharmacist who possesses a Nebraska pharmacist's license which is free from disciplinary measures at the time of supervision. This requirement for pharmacist supervision does not apply to pharmacist interns who are receiving experiential training directed by the accredited pharmacy program in which s/he is enrolled.

~~128-011.13~~ Registration as a pharmacist intern will remain in effect until the pharmacist intern gains licensure as a pharmacist, 15 months following graduation from an accredited pharmacy program, or dismissal or disenrollment from an accredited pharmacy program, whichever occurs first.

~~128-011.14~~ Each pharmacist intern must be identified as a pharmacist intern while performing the duties of an intern.

~~128-011.15~~ In the case of a pharmacist intern, the result of failure to comply with any of these standards may be loss of accumulated pharmacy internship hours and revocation of any license issued on the basis of such pharmacy internship.

~~128-011.16~~ A pharmacist intern must not supervise another pharmacist intern nor a pharmacy technician.

128-012 PHARMACIST INTERN & PHARMACY TECHNICIAN SUPERVISION REQUIREMENTS

~~128-012.01~~ A pharmacist may supervise pharmacist interns and pharmacy technicians in the following ratios:

- ~~1. A pharmacist may supervise up to two pharmacy technicians at any time, unless prohibited by a disciplinary action. (1:2)~~
- ~~2. A pharmacist may supervise up to three pharmacist interns at any time, unless prohibited by a disciplinary action. (1:3)~~
- ~~3. A pharmacist may supervise any combination of pharmacy technicians and pharmacist interns at any time up to a total of three people, as long as no more than two are pharmacy technicians. (1:3)~~
- ~~4. The supervision ratios of these regulations do not apply to pharmacist interns who are receiving experiential training directed by the accredited pharmacy program in which he or she is enrolled.~~
- ~~5. A pharmacy may apply to use more than two pharmacy technicians per pharmacist and the Board may approve such an application under the following guidelines:
 - ~~a. The pharmacy is participating in a scientific study based upon improved patient care or enhanced pharmaceutical care,~~
 - ~~b. The pharmacy has provided the Board with the following information regarding the patient care study:
 - ~~(1) Duration of the study, not to exceed 12 months.~~
 - ~~(2) Duration may be extended twice in not greater than six month increments,~~~~~~

- ~~e. Goal of the study or the hypothesis being tested,~~
- ~~d. Names of the pharmacists participating in the study,~~
- ~~e. Expected date of completion of the study,~~
- ~~f. Expected date of study data to be forwarded to the Board, and~~
- ~~g. An affidavit that the pharmacy will provide all study data and results to the Board at the completion of the study report.~~

- ~~6. The Board may revoke permission to use more than two pharmacy technicians per pharmacist at any time when they have reason to believe that patient care is not being benefitted by the study.~~
- ~~7. The Board may grant permission to continue the practices used in the study for up to 24 months during the promulgation of rules and regulations.~~
- ~~8. Nothing in these regulations will be construed to require the Board to approve an increase in number of technicians per pharmacist for any study.~~

~~128-012.02 Nothing in these regulations will be construed to prohibit one pharmacist intern or one pharmacy technician from being supervised by more than one pharmacist at any time.~~

~~128-012.03 All persons functioning as pharmacy technicians must meet the requirements of Neb. Rev. Stat. § 71-1,147.33.~~

~~128-012.04 Each pharmacy technician must be identified as a pharmacy technician while performing the duties of a technician.~~

128-013 PHARMACEUTICAL CARE REQUIREMENTS

~~128-013.01 A pharmacist may enter into a practice agreement with a licensed medical practitioner to provide pharmaceutical care according to written protocols.~~

~~128-013.02 The pharmacist must assure that the Board is notified of any practice agreement. Such notice must be given to both the Board of Pharmacy and the medical practitioner's professional Board. Such notice must contain the names of the pharmacist(s) and the licensed medical practitioner(s) and a description of the therapy being monitored or initiated.~~

- ~~1. A copy of the practice agreement and written protocols must be available for review by any representative of the Department, and~~
- ~~2. A copy of the practice agreement or written protocols must be sent to the Board upon request from the Board.~~
- ~~3. Written notice must be given to the Board at initiation and at any time there is a change in parties or protocols.~~

~~128-013.03 Practice agreements and written protocols must be signed by the pharmacist and the medical practitioner and must be reviewed, signed, and dated every 12 months.~~

~~128-013.04 Practice agreements and written protocols will cease immediately upon:~~

- ~~1. The death of either the pharmacist or the licensed medical practitioner, or~~
- ~~2. Loss of license of either the pharmacist or the medical practitioner, or~~
- ~~3. Disciplinary action limiting the ability of either the pharmacist or the medical practitioner to enter into practice agreements, or~~
- ~~4. Individual decision or mutual agreement of the pharmacist(s) or medical practitioner(s) to end the agreement.~~

~~128-013.05 Nothing in these agreements will allow a pharmacist to practice beyond his/her scope of practice.~~

128-014 DISPENSING REQUIREMENTS

~~128-014.01 A prescription must contain the following information prior to being filled by the pharmacist:~~

- ~~1. Patient's name,~~
- ~~2. Name of the drug, device, or biological,~~
- ~~3. Strength of the drug or biological, if applicable,~~
- ~~4. Dosage form of the drug or biological, if applicable,~~
- ~~5. Quantity of drug, device, or biological prescribed,~~
 - ~~a. The quantity for residents of long term care facilities must be 60 days, unless otherwise limited by the prescriber.~~
- ~~6. Directions for use,~~
- ~~7. Date of issuance,~~
- ~~8. Prescriber's name and the name of the supervising or collaborating physician, when applicable,~~
 - ~~a. If the prescription is written, it must contain the prescriber's signature and the name of the prescriber stamped, typed, or clearly handwritten in addition to the signature.~~
- ~~9. Number of authorized refills, and~~
 - ~~a. When the refill designation on the prescription is prn or Pro re nata, such designation, unless otherwise limited, means:~~

- ~~(1) If a prescription for a controlled substance in Schedules III-V, refill 5 times in the 6 months from the date of issuance, or~~
 - ~~(2) If a prescription for a non-controlled drug, device or biological, refill for 12 months from the date of issuance.~~
 - ~~(3) Controlled Substances in Schedule II cannot be refilled and a refill designation on a prescription for a controlled substance in Schedule II has no meaning.~~
- ~~10. If the prescription is for a controlled substance, the following additional information is required to be on the prescription:~~
- ~~a. Patient's address,~~
 - ~~b. Prescriber's address, and~~
 - ~~c. Prescriber's D.E.A. registration number.~~

~~128-014.02 A Chart Order Must Contain the Following Information:~~

- ~~1. Patient's name,~~
- ~~2. Date of the order,~~
- ~~3. Name of the drug, device, or biological,~~
- ~~4. Strength of the drug or biological, if applicable,~~
- ~~5. Directions for administration to the patient, including the dose to be given, and~~
- ~~6. Prescriber's name.~~

~~128-014.03 Prescription Label:~~ ~~Prior to dispensing a drug, device or biological, the pharmacist assure that a legible prescription label is affixed to the container. Such prescription label must contain the following information:~~

- ~~1. Name, address, and telephone number of the dispensing pharmacy and the central filling pharmacy, if central fill is used,~~
 - ~~2. Serial number of the prescription,~~
 - ~~3. Name of the drug, device, or biological, unless instructed to omit by the prescriber,~~
 - ~~4. Strength of the drug or biological, if applicable,~~
 - ~~5. Directions for use,~~
 - ~~6. Quantity of drug, device, or biological in the container; except for unit-dose containers,~~
 - ~~7. Any cautionary statements contained in the prescription,~~
 - ~~8. Name of the patient or if the patient is non-human, the name of the owner and species of the animal,~~
 - ~~9. Name of the prescriber,~~
- ~~a. If prescribed by a physician assistant, both the name of the physician assistant and the name of the supervising physician must appear on the label. (Neb. Rev. Stat § 71-1,107.30)~~

- ~~10. Dosage form of the drug or biological if applicable, and~~
- ~~11. Date of filling.~~

~~128-014.04 Prescription Labels for Multi-Drug Containers: A pharmacist may dispense more than one drug or biological in the same container only when:~~

- ~~1. Such container is prepackaged by the manufacturer, packager, or distributor and shipped directly to the pharmacy in this manner; or~~
- ~~2. Each drug or biological product is individually wrapped or hermetically sealed by either the pharmacist, manufacturer, packager, or distributor; or~~
- ~~3. The container does not accommodate greater than a one month supply of compatible dosage units and is labeled so as to identify each drug or biological in the container in addition to all information pursuant to 172 NAC 128-014.03.~~

~~128-014.05 Prescriber's Employee or Agent: A prescription, chart order, or refill authorization issued by a prescriber may be communicated to a pharmacist or a pharmacist intern by an employee or agent of the prescriber.~~

128-015 PATIENT COUNSELING

~~128-015.01 Only a pharmacist or a pharmacist intern can provide patient counseling, except as provided in Neb. Rev. Stat. § 71-1,147.53.~~

~~128-015.02 A verbal offer to counsel must be provided to the:~~

- ~~1. Patient, or~~
- ~~2. Patient's caregiver.~~

~~128-015.03 Patient counseling must occur, unless one of the following is documented:~~

- ~~1. Drug, device, or biological is being administered by a health care professional credentialed by the Department to a resident of a hospital or a long-term care facility;~~
- ~~2. Patient or caregiver refuses to be counseled;~~
- ~~3. Pharmacist, in his/her professional judgement, determines that counseling could harm or injure the patient, or~~
- ~~4. Prescriber designates "contact before counseling" or words of similar import on the prescription. In this instance, the pharmacist must contact the prescriber prior to counseling and may use his/her professional judgement regarding counseling following consultation with the prescriber.~~

~~128-015.04 Whenever a pharmacist receives a prescription for a brand name product and chooses to dispense a bioequivalent drug, device or biological, the pharmacist must advise the patient or the patient's caregiver that drug product selection has occurred. The patient~~

~~or the patient's caregiver may instruct the pharmacist that s/he does not desire drug product selection.~~

~~128-016 MAIL SERVICE PHARMACY LICENSE REQUIREMENTS: Any person operating a mail service pharmacy outside of the State of Nebraska must obtain a mail service pharmacy license prior to shipping, mailing, or in any manner delivering dispensed prescription drugs as defined in Neb. Rev. Stat. § 71-1,142 into the State of Nebraska.~~

~~128-016.01 In order for the Board to determine that the requirements and qualifications are substantially equivalent between Nebraska and the state, jurisdiction or territory where the pharmacy is located, and to assure that the Nebraska Secretary of State is designated the Agent of Service of Process in all matters regarding the Mail Service Pharmacy Licensure Act,~~

~~the applicant for a Mail Service Pharmacy License must submit the following information and the required fee pursuant to 172 NAC 128-017:~~

- ~~1. Pharmacy name,~~
- ~~2. Pharmacy street address,~~
- ~~3. Pharmacy telephone number,~~
- ~~4. Pharmacy permit or license number and state of issuance,~~
- ~~5. Expiration date of pharmacy permit or license number,~~
- ~~6. Name of a pharmacist, employed by and working in the pharmacy, who has an active Nebraska pharmacist's license,~~
- ~~7. License number of a pharmacist, employed by and working in the pharmacy, who has an active Nebraska pharmacist's license,~~
- ~~8. Expiration date of the Nebraska pharmacist's license,~~
- ~~9. Name of the pharmacist-in-charge,~~
- ~~10. Mailing address of the pharmacist-in-charge,~~
- ~~11. License number of the pharmacist-in-charge and state of issuance,~~
- ~~12. Expiration date of the license of the pharmacist-in-charge,~~
- ~~13. A copy of the most recent state pharmacy inspection from the state in which the pharmacy is located,~~
- ~~14. Acknowledgment whether or not the pharmacy is a Verified Internet Pharmacy Practice Site (V.I.P.P.S.) pharmacy as certified by N.A.B.P., if applicable,~~
- ~~15. A declaration that the Nebraska Secretary of State has been designated the Agent of Service of Process in all matters regarding the Mail Service Pharmacy Licensure Act, and~~
- ~~16. A statement concerning licensure of the pharmacist-in-charge and the permit of the pharmacy in another State, including any history of disciplinary action on a professional credential or pharmacy permit, sent directly to the Department from the State Board or agency that issued the license or permit,~~
- ~~17. An attestation from the applicant verifying that all information in the application is correct.~~

128-016.02 Renewal Licenses

128-016.02A Department Responsibilities: The Department will:

- ~~1. Send a notice of expiration and an application for renewal to the applicant's preferred mailing address no later than 30 days prior to the expiration date. The license renewal notice specifies:
 - ~~a. Date of expiration;~~
 - ~~b. Fee for renewal;~~
 - ~~c. License number;~~
 - ~~d. Name and address of the pharmacy;~~
 - ~~e. Name and license number of the designated Nebraska licensed pharmacist who is responsible for compliance with the Nebraska Mail Service Pharmacy Licensure Act;~~
 - ~~f. A request for a current copy of the pharmacy credential issued by the State/Jurisdiction/Territory in which pharmacy is located; and~~
 - ~~g. A request for documentation pertaining to past disciplinary actions against the pharmacy credential.~~~~
- ~~2. Issue a renewal when it determines that the applicant has submitted a completed application;~~
- ~~3. Send to each licensee that fails to renew its license a second notice, which is the final notice and specifies that:
 - ~~a. The licensee failed to pay the renewal fee or submit an application or both;~~
 - ~~b. The license has expired;~~
 - ~~c. The Department will suspend action for 30 days following the date of expiration;~~
 - ~~d. Upon receipt of the renewal fee and completed renewal application, the Department will issue the renewal license; and~~
 - ~~e. That upon failure to receive the renewal fee and completed renewal application, the license will be lapsed.~~~~
- ~~4. Place the mail service pharmacy license on lapsed status for nonpayment of fees if the licensee fails to renew the license. During this time, the mail service pharmacy may not ship, mail, or in any manner deliver dispensed prescription drugs into the State of Nebraska. The license remains in lapsed status until it is reinstated.~~

128-016.02B Licensee Responsibilities: The licensee must submit:

- ~~1. The application for renewal;~~
- ~~2. A current copy of the pharmacy credential issued by the State/Jurisdiction/Territory the pharmacy is located in~~
- ~~3. The name of the pharmacist-in-charge;~~
- ~~4. The name and license number of the Nebraska licensed pharmacist who is responsible for compliance with the Nebraska Mail Service Pharmacy Licensure Act;~~
- ~~5. Documentation pertaining past disciplinary action against pharmacy (if applicable); and~~
- ~~6. The required renewal fee pursuant to 172 NAC 128-017.17.~~

~~128-016.02C Refusal to Renew:~~ The Department may refuse ~~renewal of a mail service pharmacy license that fails to meet the requirements for renewal, including:~~

- ~~1. Violation of any of the provisions of the Mail Service Pharmacy Licensure Act, or 172 NAC 128-016.~~

~~128-016.03 Reinstatement from Lapsed Status:~~ A pharmacy requesting reinstatement of its lapsed license must submit to the Department an application for reinstatement and pay the required license fee pursuant to 172 NAC 128-017.17. The application must conform to the requirements pursuant to 172 NAC 128-016.01.

~~128-016.03A Refusal to Reinstate:~~ The Department may refuse reinstatement of a pharmacy license that fails to meet the requirements for reinstatement, including:

- ~~1. Violations of any of the provisions of the Mail Service Pharmacy Licensure Act, 172 NAC 128-016.~~

~~128-017 SCHEDULE OF FEES:~~ The following fees have been set by the Department:

~~128-017.01 Initial License by Examination or Score Transfer Fee:~~ By an applicant for a license to practice pharmacy, the fee of \$75 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

~~128-017.02 Proration of Initial License by Examination or Score Transfer Fee:~~ For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.

~~128-017.03 Initial License by Reciprocity Fee:~~ By an applicant for a license to practice pharmacy, the fee of \$75 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

~~128-017.04 Proration of Initial License by Reciprocity Fee:~~ For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.

~~128-017.05 Pharmacist License Renewal Fee:~~ By an applicant for renewal on a biennial basis of a license to practice pharmacy, the fee of \$75 and the Licensee Assistance Program fee of \$2.

~~128-017.06 Inactive License Status Fee:~~ By an applicant to have his/her credential placed on inactive status, the fee of \$25.

~~128-017.07 Renewal Late Fee:~~ By an applicant for renewal on a biennial basis of credential, who fails to pay the renewal fee on or before the expiration date of his/her credential, the fee of \$25 in addition to the renewal fee.

~~128-017.08 Certification of License 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.~~

~~128-017.09 Verification of License 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.

~~128-017.10 Duplicate License Fee:~~ For a duplicate of original license document or reissued license, the fee of \$10.

~~128-017.11 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.

~~128-017.12 Reinstatement Late Fee:~~ For reinstatement of a credential for failure to meet renewal requirements:

- ~~1. Within one year of revocation, 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.~~

~~128-017.13 Reinstatement Fee:~~ For reinstatement of a pharmacist credential following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

~~128-017.14 Fee for Temporary Educational Permit:~~ By a recipient of a temporary educational permit, the annual fee of \$50.

~~128-017.15 Fee for Pharmacist Intern Registration:~~ For each registration as a pharmacist intern, the fee of \$50.

~~128-017.16 Initial License Fee for a Mail Service Pharmacy:~~ For each license for a mail service pharmacy, the fee of \$255.

~~128-017.17 Mail Service Pharmacy License Renewal Fee:~~ By an applicant for a renewal on an annual basis of a mail service pharmacy license, the fee of \$255.00.

~~128-017.18 Initial Registration Fee for Pharmacy Technician:~~ By an applicant for a registration as a pharmacy technician, the fee of \$25 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

~~128-017.19 Proration of Initial Registration Fee for Pharmacy Technician:~~ For issuance of a registration that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.

~~128-017.20 Pharmacy Technician Registration Renewal Fee:~~ By an applicant for renewal on a biennial basis of a registration as a pharmacy technician, the fee of \$25 and the Licensee Assistance Program fee of \$2.

~~128-018 ADMINISTRATIVE PENALTY:~~ The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

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

~~128-018.01 Evidence of Practice:~~ The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

- ~~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, treatment records document the provision of service, care, or treatment by the person;~~
- ~~5. Appointment records indicate that the person was engaged in practice; and~~
- ~~6. The person or entity 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.~~

~~128-018.02 Penalty:~~ The Department may assess an administrative penalty in the

~~amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess 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.~~

~~128-018.03 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.~~

~~Approved by the Attorney General on September 21, 2005
Approved by the Governor on October 27, 2005
Filed by the Secretary of State on October 27, 2005
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PREAMBLE

~~Pharmacists are health professionals who assist individuals in making the best use of medications. This Code, prepared and supported by pharmacists, is intended to state publicly the principles that form the fundamental basis of the roles and responsibilities of pharmacists. These principles, based on moral obligations and virtues, are established to guide pharmacists in relationships with patients, health professionals, and society.~~

~~I. A pharmacist respects the covenantal relationship between the patient and pharmacist.~~

~~Considering the patient-pharmacist relationship as a covenant means that a pharmacist has moral obligations in response to the gift of trust received from society. In return for this gift, a pharmacist promises to help individuals achieve optimum benefit from their medications, to be committed to their welfare, and to maintain their trust.~~

~~II. A pharmacist promotes the good of every patient in a caring, compassionate, and confidential manner.~~

~~A pharmacist places concern for the well-being of the patient at the center of professional practice. In doing so, a pharmacist considers needs stated by the patient as well as those defined by health science. A pharmacist is dedicated to protecting the dignity of the patient. With a caring attitude and a compassionate spirit, a pharmacist focuses on serving the patient in a private and confidential manner.~~

~~III. A pharmacist respects the autonomy and dignity of each patient.~~

~~A pharmacist promotes the right of self-determination and recognizes individual self-worth by encouraging patients to participate in decisions about their health. A pharmacist communicates with patients in terms that are understandable. In all cases, a pharmacist respects personal and cultural differences among patients.~~

~~IV. A pharmacist acts with honesty and integrity in professional relationships.~~

~~A pharmacist has a duty to tell the truth and to act with conviction of conscience. A pharmacist avoids discriminatory practices, behavior or work conditions that impair professional judgment, and actions that compromise dedication to the best interests of patients.~~

~~V. A pharmacist maintains professional competence.~~

~~A pharmacist has a duty to maintain knowledge and abilities as new medications, devices, and technologies become available and as health information advances.~~

~~VI. A pharmacist respects the values and abilities of colleagues and other health professionals.~~

~~When appropriate, a pharmacist asks for the consultation of colleagues or other health professionals or refers the patient. A pharmacist acknowledges that colleagues and other health professionals may differ in the beliefs and values they apply to the care of the patient.~~

~~VII. A pharmacist serves individual, community, and societal needs.~~

~~The primary obligation of a pharmacist is to individual patients. However, the obligations of a pharmacist may at times extend beyond the individual to the community and society. In these situations, the pharmacist recognizes the responsibilities that accompany these obligations and acts accordingly.~~

~~VIII. A pharmacist seeks justice in the distribution of health resources.~~

~~When health resources are allocated, a pharmacist is fair and equitable, balancing the needs of patients and society.~~

~~* adopted by the membership of the American Pharmacists Association October 27, 1994.~~